

(1990) 11 AHC CK 0061

Allahabad High Court

Case No: Civil Misc. Writ Petition No. 18692 of 1990

Ram Bhadur Singh

APPELLANT

Vs

The District Magistrate, Deoria
and others

RESPONDENT

Date of Decision: Nov. 19, 1990

Acts Referred:

- Arms Act, 1959 - Section 17
- Constitution of India, 1950 - Article 226

Citation: AIR 1991 All 110

Hon'ble Judges: V.N. Khare, J

Bench: Single Bench

Advocate: Vashishtha Tiwari, for the Appellant; Standing Counsel, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. On 7-8-90 standing counsel was granted six weeks to file counter -- Affidavit and it was directed that thereafter the petition shall be disposed of finally. No counter-affidavit has been filed. I accordingly proceed to decide this petition on merit.

2. The petitioner holds a fire-arm licence. By means of this petition under Art. 226 of the Constitution the petitioner has come up to this Court against the order dated 7-7-90 passed by District Magistrate, Deoria suspending his fire-arm licence. By the impugned order his licence has been suspended on the ground that the petitioner is more than 72 years of age and remains often ill and as his son has connection with unsocial elements and, therefore, there is possibility of abuse of the fire-arm. Learned counsel for the petitioner has assailed the order on the ground that the ground on which his fire-arm licence has been suspended, is untenable in law.

3. The first ground taken for suspension of licence is that the petitioner is over 72 years of age and often remains ill. In *Gaya Ram v. District Magistrate cum Licensing Authority Etawah* reported in 1987 AWC 1065 it was held that the holder of licence is old by itself is no ground for revoking the licence. In view of the law laid down by this Court the first ground on which the petitioner's licence has been suspended is wholly untenable in law.

4. The second ground taken in the impugned order that there is likelihood of abuse of fire arm by the son of the petitioner is also not tenable. In *Awadesh Kumar v. District Magistrate* (1989) 15 ALR 519 : (1989 ALJ 1053) it was held that mere suspicion or possibility of abuse of the firearm by others without any positive evidence is not a ground for suspension of the licence. In view of the law laid down by this Court the second ground for suspension of fire-arm licence also suffers from patent error of law.

5. In view of the above the impugned order passed by the District Magistrate, Deoria suspending the petitioner's fire-arm licence deserves to be quashed.

6. In the result the writ petition is allowed. The order dated 7-7-90 passed by the District Magistrate, Deoria is quashed. The respondents are directed to immediately return the fire-arm to the petitioner which was deposited by him in pursuance of the impugned order dt. 7-7-90.

7. Petition allowed.