

(1999) 12 AHC CK 0062

Allahabad High Court

Case No: C.M.W.P. No. 50220 of 1999

Shiv Baran Singh

APPELLANT

Vs

Collector, Allahabad and others

RESPONDENT

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**Date of Decision:** Dec. 10, 1999

**Acts Referred:**

- Arms Act, 1959 - Section 3, 5

**Citation:** (2000) 1 AWC 420

**Hon'ble Judges:** A.K. Yog, J

**Bench:** Single Bench

**Advocate:** S.C. Dwiwedi, for the Appellant;

**Final Decision:** Allowed

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### Judgement

A. K. Yog, J.

This petition has been filed by one Shiv Baran Singh (Petitioner) against the impugned order dated 13.9.1996 passed by the District Magistrate, Allahabad and appellate order dated 4.10.1999, passed by the Commissioner, Allahabad Division, Allahabad (respondent Nos. 1 and 2). (Annexures-7 and 8 to the writ petition respectively).

2. A perusal of the impugned orders shows that the concerned authorities under the Arms Act have refused to grant permission in favour of the petitioner for holding fire arm on the ground that the petitioner did not indicate in his publication any particular or special fact which would have justified grant of arms licence in his favour. The Impugned order dated 13.9.1996 is in the form of an endorsement passed by the District Magistrate on the recommendation of the Additional District Magistrate (Rural area) and the Arms Clerk in favour of the petitioner. The said order reads :

"There is no special circumstance as such."

The said order does not show as to why the District Magistrate did not fall in line with the recommendation made by other authorities in favour of the petitioner.

3. In the impugned order passed by the Commissioner, it has come that the petitioner wanted arm licence on the ground of his security and safety because of the fact that he was residing near hilly and dacoity affected area. A photostat copy of the application in the requisite form has been filed as Annexure-1 to the writ petition and it indicates that the petitioner is resident of Shankargarh, within the jurisdiction of police station Shankargarh and he is also petrol incharge. This form further shows that he wanted fire arm for his security. Police report has been filed as Annexure-3 to the writ petition. It also affirms the fact that the petitioner is Manager of a Petrol Pump and also carries on agriculture. Again on the application (Annexure-4 to the writ petition) there is the recommendation of the Revenue Authority, dated 22.6.1992. bearing endorsement of Tehsildar Bara dated 23.6.1992, indicating that the petitioner was residing in dacoity affected area. The aforesaid fact and recommendation has been confirmed by the S.D.M.. Bara vide his report dated 23.6.1992 [Annexure-5 to the writ petition).

4. In view of the above material on record the authorities under the Arms Act were not justified in rejecting the application of the petitioner. In case the concerned authority required further information or material for their satisfaction, this should have been required by them from the petitioner by giving opportunity to furnish the same Instead of rejecting the application.

5. In view of the above, the impugned orders dated 13.9.1996 and 4.10.1999 are hereby set aside and the writ petition stands allowed with the direction that the District Magistrate, Allahabad, shall decide the application of the petitioner afresh keeping in view the observations made above.