

Court No. - 86

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Case :- CRIMINAL MISC. WRIT PETITION No. - 1958 of 1995

Petitioner :- Sudhakar Mishra

Respondent :- State Of U.P. And Ors.

Counsel for Petitioner :- D.S.Misra

Counsel for Respondent :- A.G.A.

Hon'ble Gautam Chowdhary,J.

1. Heard learned counsels for parties and perused the record.
2. This writ petition is directed against order dated 18.05.1989 passed by Collector cancelling firearm licence of petitioner whereagainst petitioner's appeal has also been rejected by order dated 12.10.1995 passed by Commissioner, Varanasi Division, Varanasi.
3. It is contended that orders passed by authorities below show that there is a long drawn enmity in the family of petitioner and one Vijay Bali Shankar and his family. This feud has resulted in murders of several persons on both the sides and, therefore, licence has been cancelled on the ground that petitioner has a criminal background. Learned counsel further submits that the brother of the petitioner, whose licence was also cancelled by the same order, but being its case number against which, the appeal too was rejected and he challenged the same by means of filing a Writ-C No. 34605 of 1995 (Diwakar Mishra Vs. State of U.P. and others) and the said writ petition was allowed vide order dated 11.04.2019, copy of which order has been produced before this Court and is taken on record.
4. It is submitted that aforesaid fact itself shows that life of petitioner is endangered reasonably and really and, therefore, in absence of any criminal activity on the part of petitioner misusing firearm having been established, cancellation of firearm licence is patently illegal, erroneous and arbitrary. It is also pointed out that for the last more than 22 years, since impugned orders were stayed, firearm is continuing with petitioner.
5. Learned A.G.A. could not dispute that it is evident from record that there is enmity between two groups which has resulted in some murders and, therefore, there is real threat perception to the life of petitioner.
6. In view thereof and in absence of any finding recorded by

authorities below that petitioner has misused firearm in question or there is any other disability on his part, in my view, exercise of power by respondents in cancelling petitioner's firearm licence is not justified.

7. In the result, writ petition is allowed. Impugned orders dated 18.05.1989 and 12.10.1995 are hereby set aside.

8. However, it is made clear that while passing this order, this Court has examined the orders passed by authorities below in 1989 and 1995 and it shall not preclude the respondents from re-assessing the present situation and proceed in accordance with law.

Order Date :- 17.2.2022

S.Ali