

Court No. - 30**Case :-** WRIT - C No. - 18463 of 1998**Petitioner :-** Pawan Kumar Jha**Respondent :-** State Of U.P. & Others**Petitioner Counsel :-** Umesh Narain Sharma,Devi Shanker Shukla**Respondent Counsel :-** C.S.C.**Hon'ble Sibghat Ullah Khan,J.**

Sri B. M. Meena, who was D.M. Allahabad in the year 1996, passed an order on 27.10.1996 refusing to grant fire arm licence to the petitioner. In the order, it is mentioned that police has not given any positive report for grant of licence. Copy of police report is Annexure-IV to the writ petition. Concerned authority of the police recommended for grant of licence. Against the said order, petitioner filed appeal being Appeal No.407 of 1997. Sri V.K. Sharma, Commissioner, Allahabad Division, Allahabad dismissed the appeal on the same grounds. Under no circumstances, the said orders can be sustained.

Sometimes the court gets an impression that the executive authorities are granting fire arm licences only on irrelevant recommendations, considerations and connections. In such scenario genuine licence seeker becomes a casualty and that whenever the authorities want to grant fire arm licence, they grant without any rhyme or reason and similarly whenever they want to reject application for grant of fire arm licence they do it without any rhyme or reason.

There was absolutely nothing against the petitioner still grant of fire arm licence was denied. It is shocking. The police authorities and the authorities who are responsible to consider the application for grant of fire arm licence do not realise that criminals do not require any fire arm licence for committing crime as they can very well use unlicensed fire arm. These are only respectable and peaceful persons who require licence. Moreover unnecessary rejection of applications for grant of fire arm licence breeds a tendency to

keep unlicensed arms, a greater evil.

It appears that application of the petitioner for fire arm licence has been rejected only on the ground that petitioner is too law abiding and peaceful person.

Accordingly, both the impugned orders are set aside. Writ petition is allowed. Matter is remanded to the D.M. Allahabad with the direction to grant the licence to the petitioner unless there is something adverse against him like pendency of some criminal case.

It is directed that the authorities while considering an application for grant of fire arm licence shall keep only and only one criteria for refusing to grant licence and that is pendency of some criminal case. Licence is normally to be granted unless there is something adverse. If there is neither anything good nor bad against a person, then the licence must be granted otherwise a tendency to keep unlicensed fire arms will grow.

Amendment-II (1791) of the American Constitution is as follows:

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Some people say we the Indians are still not matured enough to go to that extent. On the other hand some say that undue restriction on keeping and bearing Arms is based on unfounded fear. Gradual dismantling of the control may balance both the views.

Office is directed to supply a copy of this order free of cost to Sri S.P. Mishra, learned standing counsel for immediately sending the same to Secretary, Home, Government of U.P. within a week.

Order Date :- 3.12.2010

NLY