



Sr. No. 83

2025:JKLHC-JMU:220

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No.2593/2023
CM No.6122/2025

Reserved on: 23.07.2025
Pronounced on: 08.08.2025

Wajid Bashir Khan, Age 40 years
S/O Bashir Ahmed Khan
R/O Village Sakhi Maidan,
Tehil Mendhar, District Poonch.

.....Petitioner

Through: Mr. N. D. Qazi, Advocate.
Mr. Waseem A. Mir, Advocate.

Vs

1. Union Territory of Jammu & Kashmir
through Secretary, Home Department,
Civil Secretariat, Jammu.
2. Divisional Commissioner, Jammu.
3. District Magistrate, Poonch.
4. Senior Superintendent of Police, Poonch.
5. SDPO, Mendhar, District Poonch.
6. Station House Officer,
Police Station Mendhar,
District Poonch.

.....Respondents

Through: Mrs. Monika Kohli, Sr. AAG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. The petitioner, through the medium of this petition, seeks the following
reliefs:-

- i) Writ of certiorari to quash the Order dated 27.05.2023 passed by
Divisional Commissioner, Jammu in case titled Wajid Bashir Khan
Vs. District Magistrate, Poonch in File No.2022-23;



- ii) Writ of certiorari to quash the Order No.DMP/J/3267-68 dated 23.12.2017 issued by the respondent No.3 by virtue of which the representation of the petitioner seeking restoration of his Arms License has been rejected illegally, arbitrary and without taking into consideration the judgments mentioned in the representation; &
- iii) Writ of Mandamus commanding and directing the respondents particularly respondent No.3 to reconsider the case of the petitioner for restoration of his Arms License No.119/C/DMP/2009 dated 08.03.2010 which has been revoked by virtue of Order No.DMP/J/3267-68 dated 23.12.2017 passed by respondent No.3.

2. The case set up in the petition is that the petitioner is an elected DDC member from 08 Mendhar (B) Constituency of Poonch District; that he had applied for issuance of Arms License for self protection and accordingly, after getting all the verifications done, respondent No.3 issued Arms License No.119/C/DMP/2009 dated 08.03.2010 in favour of the petitioner.

3. The petitioner alleged that he was implicated falsely and frivolously in a criminal case registered vide FIR No.208/2017, with the Police Station Mendhar; that on the basis of a communication dated 07.12.2017 of Senior Superintendent of Police, Poonch addressed to District Magistrate, Poonch, requesting therein that as per intimation of SDPO Mendhar, the petitioner along with some others is involved in case FIR No.208/2017 of Police Station Mendhar, who was in possession of a pistol at the time of their attack upon Tehsildar Mendhar, so his license may be cancelled to avoid any untoward incident in future; and that acting upon the request of SSP Poonch, District Magistrate Poonch, vide Order dated 23.12.2017 revoked the license issued in favour of the petitioner.



4. Thereafter the petitioner represented before District Magistrate for cancellation of revocation Order dated 23.12.2017 but the District Magistrate, Poonch, rejected his representation on 03.01.2023 being devoid of merits; that the appeal was preferred against Order dated 03.01.2023, which also came to be dismissed by the Divisional Commissioner, Jammu vide Order dated 27.05.2023, holding that the District Magistrate, Poonch has rightly cancelled the license of the petitioner keeping in view the 'security of public peace' or 'for public safety'.

5. Petitioner seeking quashment of impugned Orders dated 23.12.2017 passed by respondent-DM & 27.05.2023 passed by respondent-Divisional Commissioner challenged the same on the ground that respondent Nos.2 & 3 have not taken into consideration the judgments mentioned in his representation, which stipulates that there remains no quarrel in the legal position that pendency of a criminal case cannot be cited a ground for cancellation/ suspension of Arms License under Section 17 of the Arms Act, 1959; that the report submitted by the SHO concerned in which it has been categorically stated that during the course of investigation and as per the statements of witnesses, offences under Section 307 RPC and 3/25 IAA had not been proved against the petitioner, was not taken into consideration.

6. Pursuant to notice, respondents filed their objections, wherein it is stated petitioner was involved in the following criminal cases:

- i) FIR No.31/2011 U/S 307/341/323/147/148 RPC of Police Station Mendhar, wherein he was acquitted by the Trial Court on 17.12.2023;
- ii) FIR No.194/2010 U/S 341/323 RPC registered with Police Station Mendhar, which was compounded on 06.07.2013; &



iii) FIR No.208/2017 U/S 307/323/353/34 RPC, 3/25 Arms Act registered with Police Station Mendhar, which is *sub judice* in the court of law.

It has been further asserted that as per the statements of the witnesses recorded, it is found that on 26.11.2017 at 1900 Hours, the complainant- Executive Magistrate (Tehsildar) Mendhar was busy in connection with the drain work of Mendhar Town, in presence of local SDM, SDPO and police party and when they all reached at Sariya market on construction site, 1. Wajid Bashir @ Tikkoo and 2. Shaid Ahmed Khan @ Babul, with common and criminal intention interrupted the ongoing govt. work; that Tehsildar requested them not to do so, however, they became aggressive and started to beat him; that on seeing the police party, they fled away on their vehicle bearing registration No.JK02BN-0285; that a case was registered vide FIR No.31/2011 at Police Station Mendhar for the commission of offences punishable U/Ss 307/341/323/147/148 RPC and 3/25 Arms Act; that during the course of investigation, on the basis of statements of witnesses, offences U/S 353/332/34 RPC were proved against both 1. Wajid Bashir @ Tikkoo and 2. Shaid Ahmed Khan @ Babul Ss/O Mohd. Bashir Khan R/O Sakhi Maidan Mendhar and the case is still *sub-judice* before the Court of law.

7. Respondents have pleaded in their reply that the licence of the petitioner was revoked, after proper verification and on the basis of the report dated 07.12.2017 of SSP Poonch and report dated 20.12.2017 of the SDPO Mendhar, in accordance with law; that his representation was rejected vide impugned order dated 03.01.2023 after seeking report from SSP Poonch, vide his report dated 10.05.2022 about the criminal background of the petitioner. It was, finally, prayed that the petitioner's petition is misconceived and deserves outright dismissal.



8. Mr. N. D. Qazi, learned counsel for the petitioner, argues that the arms licence granted in favour of the petitioner was cancelled by the respondent-District Magistrate, Poonch on 23.12.2017 without assigning the reasons, which were warranted to be recorded as 'public safety' is not the ground to revoke the licence. He has argued that before revoking the licence by the District Magistrate, the petitioner, who was licensee, had not been issued any show-cause notice, which was required to be issued before ordering any revocation or even suspension; that sub-section (3) of Section 17 of Arms Act deals with the suspension or revocation of licence and provides that the licence can be suspended or revoked in certain conditions including being the licensee of unsound mind or necessary 'for the security of the public peace' or 'for public safety' or licence having been obtained by the suppression of material/wrong information at the time of applying for the licence. It was incumbent upon the District Magistrate to issue a show-cause notice and afford a right of being heard, in terms of principles of natural justice, which in the instant case has not been done by the Magistrate.

9. He further argued that the petitioner even moved an application to the District Magistrate for review/re-consideration of the order passed by the him, who without assigning any reasons vide order dated 03.01.2023 rejected the plea raised by the petitioner; that aggrieved of the same, the petitioner had filed an appeal before the Appellate Authority i.e. Divisional Commissioner, Jammu, however, the Appellate Authority also, vide order dated 27.05.2023, declined to intervene and dismissed the appeal observing that the same was devoid of merits, as such, the petitioner has invoked the writ jurisdiction of this Court to seek setting aside of all the orders passed by the Divisional Commissioner, Jammu and District Magistrate, Poonch, and to direct the District Magistrate to



re-consider the case of the petitioner for restoration of his licence. The learned counsel for the petitioner has, in support of his arguments, relied upon judgments in '**Bhan Singh Vs. State of Rajasthan & Ors.**' [S.B. Civil Writ Petition No.7422/2022; D.O.D. 24.05.2022]; and '**Khem Singh Vs. State of Rajasthan & Ors.** reported in **2005 (2) Cr.L.R. (Raj) 907.**

10. Mrs. Monika Kohli, learned Sr. AAG, *ex adverso*, argued that since the petitioner had misused his licenced weapon, as is borne out from the record, the petitioner had pointed his licenced weapon at a team of officers headed by Tehsildar in presence of SDM and SDPO Mendhar, when they had gone to the Mendhar market for removal of encroachments in connection with drain work; that the petitioner, who was stated to be an elected representative, misused his licenced pistol, to attack the officers' party, who had gone on spot to oversee the encroachment drive and it can be well imagined how the petitioner would use his weapon against his fellow citizens on trivial issues, as such, his licence has been rightly revoked by the licencing authority and upheld by the appellate authority, as petitioner was found not to be competent to hold a licence, under the apprehension that he may misuse the same. It was finally prayed that the petition be dismissed.

11. Heard learned counsel for both sides at length, perused the record and considered.

12. Petitioner had been issued Arms Licence No. 119/C/DMP/2009 on 08.03.2010 (for NPB Pistol/Revolver) and on being involved in a criminal case, FIR No.208/2017 registered at Police Station, Mendhar on a written complaint of Tehsildar, Executive Magistrate, Mendhar. It had been alleged by the complainant-Tehsildar that a team of officers, in presence of the local SDM and



SDPO, while being busy in removal of encroachment, the petitioner along with his brother came on spot and raised objections, entered into an altercation with the officers and also pointed his licenced pistol on the complainant threatening of dire consequences, as such, a case vide FIR No.20/2017 was registered for the commission of offences under Sections 307, 323, 353, 34 RPC and under Section 3/25 Arms Act at local police station.

13. On registration of the case, SSP Poonch vide his No.SSP/Rdr/37/2017/25567-70/GB dated 07.12.2017 recommended the District Magistrate for cancellation of licence of the petitioner for having been involved in the aforesaid FIR as the petitioner was stated to have made a murderous attack on Tehsildar Mendhar. Acting upon the recommendation of SSP Poonch, the District Magistrate, Poonch vide order dated 23.12.2017 revoked the licence issued in favour of the petitioner; that on being represented by the petitioner, before the Magistrate for cancellation of revocation order, the District Magistrate rejected his representation on 03.01.2023 being devoid of merits, as such, he challenged the said revocation order through the medium of an appeal before the Divisional Commissioner, Jammu, stating that he is a highly educated and respectable person having B.Tech degree in Civil Engineering and had been elected as Councilor from Mendhar (B) Constituency of District Development Council of Poonch District, however, he was falsely and frivolously implicated in criminal case FIR No.208/2017 of Police Station Mendhar; that merely on the basis of registration of FIR, the respondent-District Magistrate on the police recommendation revoked his arms licence in an arbitrary manner without assigning any reason or affording him an opportunity of being heard.



14. The respondent-Divisional Commissioner, Jammu, as an Appellate Authority, holding that the petitioner being involved in the attack upon Tehsildar Mendhar regarding which the aforesaid FIR has been registered and that at the time of attack, the petitioner was in possession of a pistol, as such, the SSP Poonch had recommended the cancellation of licence urgently, in order to avoid any untoward incident in future; and that the District Magistrate had rightly cancelled the licence of the petitioner keeping in view the 'security of public peace' and 'for public safety'.

15. In the cases of **Khem Singh and Bhan Singh**, relied upon by learned counsel for the petitioner, it has been held that 'there remains no quarrel in the legal position that pendency of a criminal case cannot be cited a ground for cancellation/rejection of arms licence under Section 17 of the Arms Act 1959. The Division Bench of Hon'ble Rajasthan High Court in Khem Singh's case has held that in absence of any finding that cancellation of licence was necessary for public safety, such order cannot be sustained.

16. The Order passed by District Magistrate on 23.12.2017 for revocation states that SSP Poonch vide his communication dated 07.12.2017 and SDPO Mendhar vide his communication dated 20.12.2017, reported that the petitioner was involved in criminal case FIR No.208/2017 registered at Police Station Mendhar for an attack on Tehsildar Mendhar; that the SSP recommended for the cancellation of the licence. The District Magistrate having regard to the recommendation of the police, under sub-section (3) (b) of Section 17 of the Arms Act, 1959 revoked the licence of the petitioner. The provision invoked by the Magistrate, who is the licencing authority, relates to suspension or



revocation of licence when the licencing authority deems it necessary for the ‘security of public peace’ or for ‘public safety’.

17. Section 17 of the Indian Arms Act, 1959, which deal with licenses for facility of reference, is reproduced as under:-

“17. Variation, suspension and revocation of licences.—(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver up the licence to it within such time as may specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence,—

- (a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or
- (b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or**
- (c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or
- (d) if any of the conditions of the licence has been contravened; or
- (e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.



(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an appellate Court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.”

18. In the case on hand, it is not that the petitioner is involved in an ordinary criminal case, but he was involved in a murderous attack, having his licenced pistol in his hand, on an anti encroachment party by Tehsildar Mendhar in presence of local SDM and SDPO; that he had made the attack and threatened the party with the use of licenced pistol, as such, the petitioner had the cheeks to show such a courage that he did not even spare the officers of the administration, who are otherwise involved in the enforcement of law and order, as such, the police had rightly recommended cancellation of the licence, as the petitioner was found to be a threat to public peace and safety. Simply that the petitioner is an elected representative in a council in the Panchayati Raj Institution does not entitle him that he may brandish and use his licenced pistol, to threaten even the officers, so much so, the Magistrate on spot in presence of SDM/SDPO.

19. It is not that the complaint made by a private person, who may be inimical to the petitioner, rather it has been made by an officer, who is Executive Magistrate of the local area, as such, this Court is of the opinion that the petitioner's licence of pistol had been rightly revoked/cancelled by the District



Magistrate Poonch on the recommendation of the SSP Poonch based on his involvement in a murderous attack on the Magistrate brandishing his pistol as the same amounts to threat to the security of the public peace and public safety. Such a person, who has not spared even the local officers of administration from his wrath, it can be imagined that how he may be dealing with the fellow citizenry.

20. Holding licence of a fire arm, is not a fundamental right. Refusal to grant licence on the ground of being unfit should be for very strong reasons like involvement of the applicant in heinous crime. Though it is a beaten law that mere involvement in a criminal case cannot be a sole ground for cancellation of arms licence, as argued by learned counsel for the petitioner, however, commission of offences is not the only ground which justifies cancellation of licence. Prevention is part of Criminal Law, and action need not await commissioning or non-commissioning of offences. Preventive and punitive actions are justified in order to prevent a mischief. Legal niceties, *de hors* living realities, cannot do honour to the rule of law. If there are good grounds for cancellation of licence, cancellation would be justified. It is not the gift of administrative authorities to see the future with a degree of precision, or to see the visage of things to come. An element of subjective opinion is inevitable in these regions. If the authority forms an opinion on reasonable premises and objectively, the opinion cannot be assailed, only because it lacks the quality of prediction.

21. The contention of the learned counsel for the petitioner that no charge of murderous assault punishable under Section 307 RPC and under the Arms Act were proved during the investigation against the petitioner in the case



registered against him does not hold ground in view of law laid down by the Full Bench of Patna High Court in a case titled *Kapildeo Singh v. State of Bihar* reported as **1987 Criminal Law Journal 960**. It is well settled that grant of arms licence is neither a fundamental right nor there is fundamental right to carry Arms. It is privilege conferred by the Arms Act, grant of licence is always subject to the satisfaction and discretion of the Licencing Authority.

22. So far as the next contention of the learned counsel for the petitioner that no show-cause notice was issued or any enquiry was held before revocation of the licence by the District Magistrate, the same is also no longer *res integra* in view of the law laid down by the Hon'ble Allahabad High Court. A Full Bench of the Allahabad High Court in a case titled '*Chhanga Prasad Sahu v. State of UP & Ors.* reported as **AIR 1986 ALL 142** has held that opportunity of hearing to licensee is not permissible when there is a threat to the security and safety of the public. Again, a Full Bench of the same Hon'ble High Court in a case '*Rana Pratap Singh v. State of UP*', reported **1996 Criminal Law Journal 665** held that prior hearing is not a legal necessity in such cases. The Hon'ble Bombay High Court has gone to the extent that where a competent authority was satisfied that the licensee was short-tempered in nature and possibility of misusing the Revolver in anger and action of the cancellation of the licence was taken to prevent danger and to ensure security, held proper in a case reported as **2009 Criminal Law Journal (NOC) 903**.

23. The petitioner was not only found involved in the serious case registered vide FIR No.208/2017 for the commission of attempt to murder but in the year 2011 also, he was involved in a similar case registered vide FIR No. 31/2011, besides one more criminal case registered in the year 2010 vide FIR



No. 194/2010. In view of the given criminal background of the petitioner, this Court is of the considered opinion that the District Magistrate had rightly revoked the licence of the petitioner and the Divisional Commissioner had also justly rejected the appeal.

24. Having regard to the foregoing reasons and discussions made hereinabove, this Court is of the considered opinion that the impugned order passed by the District Magistrate in revoking the licence of the petitioner was legal in nature, the review of revocation order was also dealt properly by the Licencing Authority and the appeal has also been rightly rejected by the Appellate Authority. The impugned orders, thus, do not warrant any interference by this Court in its writ jurisdiction.

25. Viewed thus, the petition is, found to be without any merit and substance and is, hereby, dismissed along with connected application(s). No costs.

(M A Chowdhary)
Judge

Jammu
08.08.2025
Narinder/Raj Kumar

Whether order is speaking?	Yes.
Whether order is speaking?	Yes.