

A fire arm licence cannot be denied only on conjectures and surmises and without appreciating the objective of statute under which the power is being exercised. The security and safety of a person is necessary. It is a Fundamental Right of every person. Keeping a fire arm for the purpose of personal safety and security is a mode and manner of protection of oneself and enjoyment of Fundamental Right under Article 21 of the Constitution of India. In the interest⁸⁰ of maintenance of law and order, certain reasonable restrictions have been imposed, but that would not make it to be dependent on the authorities. It is not a kind of privilege being granted by Government to individual, but only to the extent where grant of fire arm licence to an individual would prejudice or adversely affect the maintenance of law and order including peace and tranquility in the society. Ordinarily, the grant of fire arm licence shall not be denied.¹⁶⁰ It is in these circumstances that this Court has observed that grant of fire arm licence should be an action and denial on exception. Strong reservations were expressed by the rationale of the judgments passed by Hon'ble the Apex Court and consequently, their reconsideration was sought by a larger Bench. A reading of the relevant statutory provisions of the Arms Act would show that no time limit has been prescribed for the consideration of an application for the grant of ²⁴⁰arms licence. There is no provision to the effect that if the application is not finally decided within a particular time, the licensing authority shall be bound to grant the licence or that the licence shall be deemed to have been granted. We, therefore, cannot concur with the view of Hon'ble Mr. Justice Vijay Bahuguna. On the face of it, the provisions of the Arms Act cannot be so construed as to provide for a deeming provisions for the grant³²⁰ of a licence merely on the expiry of a particular period of time. Unsustainable is the view that the right to carry non-prohibited fired arms comes within the purview. No doubt, a citizen may apply for grant of a licence of fire arms mostly with the object of protecting his person or property, but it is mainly the function of the State. This cannot be comprehended within the ambit of Article 21 of the Constitution which postulates the Fundamental Right.⁴⁰⁰ This represents a glaring instance of a Learned Single Judge. The licensing authorities have granted licences virtually to everyone who applies to them to possess the fire arm. The peaceful existence of the citizens in the society is threatened by such reckless actions of the State. A person may need a licence for his self-defence or for the defence of his property. The nature of the job of the person may also require him to possess the fire arm.⁴⁸⁰