

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5545 of 2015

Subodh Kumar Singh son of Shree Shyam Kishore Singh, Resident of village &
PO- Pagra, P.S.-Dalsingsarai, District-Samastipur

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga
3. The District Magistrate, Samastipur
4. District Arms Officer, Samastipur

.... Respondents

Appearance :

For the Petitioner : Mr. Abhay Shankar Singh, Advocate
For the State : Mr. Ajay-, GA12,
Mr. Sanjay Kumar, A.C. to G.A. 12

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 15-09-2015

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 13.02.2012 passed by the Collector, Samastipur (Annexure 8) by which he has cancelled the licence of the petitioner granted for N.P. Bore revolver. He also challenges the order dated 29.03.2014 passed by the Commissioner of Darbhanga Division, Darbhanga, as contained in Annexure 10, by which the appeal filed by the petitioner has been dismissed.

It is contended on behalf of the petitioner that the licence was renewed every time, however, when a person became ready to sell his revolver in favour of the petitioner and, thereafter, he

received a call also from the field gun factory, Kanpur for depositing balance amount and receiving the revolver, on such application having been made, a proceeding was initiated and order has been passed cancelling the licence of the petitioner.

Counter affidavit has been filed on behalf of the State. It has been stated that period of purchase of arms was extended several time but the petitioner was not able to purchase the same even after such extension. It is contended that the petitioner could have got the revolver out of turn as would be evident from Annexure 2 but he could not do so for whatsoever reason. It appears that show cause notice was issued upon the petitioner and the petitioner has responded by filing a reply thereto. However, from perusal of the impugned order, as contained in Annexure 8, it does not appear that grounds raised by the petitioner have been discussed and decided by the licensing authority. Merely one sentence has been devoted by stating that petitioner's explanation is not worth acceptance. It is well settled that in case any action of the authority is going to visit civil consequence then issuance of show cause notice would be must and consideration of the grounds raised in the reply filed by such person would also be required so that it could be understood by the appellate or any other competent authority as on what grounds the petitioner's reply was rejected or not found tenable. It is further well settled that

defect in the original order cannot be cured by the appellate authority.

Having regards to the aforementioned facts and circumstances of the case, in my considered opinion, the orders, as contained in Annexures 8 and 10, are not sustainable in the present form and, accordingly, the same are quashed and set aside.

The matter is remitted back to the licensing authority-cum-District Magistrate, Samastipur to take a fresh decision in the matter and pass a reasoned order after consideration of the reply given by the petitioner to the show cause notice issued by him and also the subsequent development that now the petitioner is ready to purchase the arms within a period of fortnight from the date of such permission being granted.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

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