

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.449 of 2014

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Bijendra Prasad Yadav, son of Ram Lakhan Prasad Yadav Resident of Saidpur,
P.S. Manshi, District Khagaria.

.... Petitioner/s

Versus

1. The State Of Bihar through its District Magistrate, Khagaria.
2. The District Magistrate, Khagaria.
3. The Deputy Collector (Arms), Khagaria.
4. The Deputy Collector, In-Charge (Legal), Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal

For the Respondent/s : Mr. Asggar Mustafa, AC to GP-32

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 31-03-2015

Heard Mr. Alok Kumar Agrawal, learned counsel
appearing on behalf of the petitioner and Mr. Ashhar Mustafa,
learned Assisting Counsel to Government Pleader No.32 for the
State.

The petitioner is aggrieved by an order bearing Memo
No.64 dated 29.1.2005 of the Licensing Authority under the
Arms Act, 1959 –cum- District Magistrate, Khagaria, whereby
he has suspended the arms licence of the petitioner. A copy of
such order is placed at Annexure-6 to the writ petition.

The petitioner holds Licence No.05 of 1996 in respect
of one N.P. Bore Rifle bearing No.AB-95-3496 (.315 Bore) and
a second licence bearing Licence No.02 of 2000 in respect of
DBBL Gun bearing No.12822-A/7 (.12 Bore).

A police case was instituted against 11 accused
persons including the petitioner arising from Chautham (Mansi)



P.S. Case No.135 of 2000 registered for the offences punishable under sections 147, 148, 149 and 302 of the Indian Penal Code and section 27 of the Arms Act. It is following the registration of the police case against the petitioner that the licence of the petitioner was suspended by the impugned order and a proceeding was initiated for revocation of licence giving rise to Arms Case No.36 of 2005-06 which is pending before the Collector, Khagaria.

The grievance of the petitioner is that even when no charge-sheet has been submitted against him although the criminal case was instituted as back as on 8.9.2000 yet on a mere institution of the criminal case that both the licences were suspended by the Licensing Authority without giving any opportunity of hearing to the petitioner and a case for revocation of licence was instituted bearing Arms Case No.36 of 2005-06. He submits that apart from the fact that the suspension of the licence of the petitioner is without opportunity of hearing and thus against the principles of Natural Justice, even the delay in disposal of the arms case pending since almost a decade, is highly prejudicial to the security of the petitioner who is a public representative. Learned counsel in support of his submission has relied upon a Division Bench judgment of this Court reported in 1993(2) PLJR 107 (Jagdamba Singh @ Markandya Singh Vs.

The State of Bihar), more particularly paragraphs 14 to 16 thereof.

A counter affidavit has been filed on behalf of the State, in which it is stated that it is by virtue of serious allegation against the petitioner that the order of suspension has been passed and a proceeding has initiated against the petitioner in Arms Case No.36 of 2005-06. The delay in disposal of the proceedings has been attributed to the petitioner, although such allegation is being contested by Mr. Agrawal, learned counsel appearing for the petitioner.

Be that as it may, taking note of the fact that a criminal case stands registered against the petitioner, this Court is not persuaded to interfere with the order of suspension at this stage and this writ petition is disposed of with a direction to the District Magistrate, Khagaria to consider and dispose of the Arms Case No.36 of 2005-06 in accordance with law and after giving opportunity of hearing to the petitioner expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is disposed of with the direction aforementioned.

(Jyoti Saran, J)

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