

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19990 of 2011

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M/S Anil Armory, Arms Dealer Through Its Proprietor Anil Kumar Sharma Son Of
Late Lakshman Mistry Resident Of Mohalla-Chubagh, P.S. Kasim Bazar, District-
Monghyr.

.... Petitioner

Versus

1. The State Of Bihar Through Commissioner, Monghyr.
2. Divisional Commissioner, Monghyr.
3. The District Magistrate, Monghyr.

.... Respondents

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Appearance :

For the Petitioner : Mr. PRAMOD KUMAR SINGH, Advocate
For the State Ms Ratna Kumari, AC to SC13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-08-2015

I have heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 5 which is an order dated 02.07.2009 passed by the District Magistrate, Munger, by which licence no. 04/1978 for sale of arms and ammunitions has been cancelled as well as the appellate order dated 23.08.2010 passed in Appeal No. 053/2009 by the Commissioner, Munger Division, Munger by which the appeal preferred by the petitioner assailing the aforesaid order of the District Magistrate, Munger has been dismissed.

It is contended on behalf of the petitioner that though he has applied for renewal of licence for the year 2006-07 on 14.12.2005 and for the year 2007-08 on 17.11.2006, however, the same remained pending in the office of the District Magistrate, Munger itself and no



decision was taken upon them. On 18.05.2007, vide direction contained in memo no. 307/Arms dated 18.05.2007, the petitioner was restrained from doing any business of arms till further orders and show-cause notice was issued to several arms dealers, the petitioner being one of them. The petitioner filed reply on 23.05.2007 to the show-cause notice vide Annexure 2. Thereafter, vide Annexure 3 dated 04.12.2008 show-cause notices were again issued against several arms dealers including the petitioner and the petitioner filed reply the show-cause vide Annexure 4 dated 19.12.2008. Finally, the order impugned dated 02.07.2009 contained in Annexure 5 was passed by the District Magistrate, Munger. The licence of the petitioner has been cancelled on the ground that the petitioner did not cooperate in annual inspection despite the direction of the authorities and since it is no more engaged in business, the licence is required to be cancelled in view of Rule 1(c) of Form 12, i.e., terms and conditions thereof.

At the time of hearing, it is contended on behalf of the petitioner that though, vide Annexures 2 and 4, the petitioner had already filed detailed replies clearly stating that it has regularly filed fees along with challans, copies of which have been appended as Annexures 7 series, no step was taken for renewal of the licence and on 18.05.2007 the petitioner was restrained from dealing with the

business of arms sale till further orders. Surprisingly, on that basis it has been held that the petitioner violated the terms and condition no. 1(c) of the licence as it was not doing any business.

I find force in the submission raised on behalf of the petitioner. It appears from the reply to the show-cause notice filed on behalf of the petitioner that it had filed applications for renewal of the licence in the year 2006, 2007 and also in 2008, however, the matter was kept pending. This is also an admitted matter that a direction was given to several persons including the petitioner not to deal in arms sales vide letter dated 18.05.2007 due to which the petitioner was unable to do any business. One of the grounds taken in the order of cancellation of licence of the petitioner is that it is no more interested in doing business at all.

That apart, it does not appear that the averment made by the petitioner has been considered, discussed and rejected by the District Magistrate, Munger by stating the reason as to why the grounds taken by it are not tenable.

It is well settled that if any order or action of the authority is going to visit the civil consequence upon a person or party then issuance of show-cause notice would be must and, before taking such decision, consideration of the grounds raised by such person or party would be required. In this case, it does not appear that the grounds

taken by the petitioner have been dealt with, which, in my considered opinion, is a serious lacuna in the impugned order.

Accordingly, this writ application succeeds, the original as well as the appellate orders contained in Annexures 5 and 6 are quashed and set aside and the matter is remitted back to the District Magistrate, Munger, i.e., respondent no. 3, to pass a fresh order after consideration of both the replies contained in Annexures 2 and 4 to the writ petition filed by the petitioner on its own merit and in accordance with law.

It is made clear that this order does not mean that the petitioner would be allowed to engage it in business of sale of the arms and ammunitions automatically as the same would be dependent upon the order which would be finally passed by the licensing authority. However, in view of the fact that much delay has already occurred in the matter, it is expected that the same would be finally decided after giving reasonable opportunity to the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

SC/-

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