

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6661 of 2013

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Lalan Singh Son Of Chandrama Singh Resident Of Village- Dharahara, P.S.-
Karagahar, District- Rohtas

.... Petitioner

Versus

1. The State Of Bihar, Through The Chief Secretary, Government Of Bihar, Patna
2. The Commissioner, Patna Division, Patna, Bihar
3. The District Magistrate, Rohtas At Sasaram
4. The Superintendent Of Police, Rohtas At Dehri Of Sone

.... Respondents

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Appearance :

For the Petitioner : M/s Sudama Singh, and
Rajni Kant Singh, Advocates

For the State : M/s U.S.S. Singh, G.P. I and
R.K.Chandram, AC to GP I

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 15-09-2015

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

The order dated 2.8.2006 passed in Arms Case No. 20 of
2001 by the Collector, Rohtas (Sasaram), as contained in Annexure 6
as well as the appellate order dated 8.1.2013/5.2.2013 contained in
Annexure 10 are under challenge in this writ application.

By Annexure 6 the licensing authority has cancelled /
revoked the arms licence of the petitioner granted for N.P.Bore riffle.
Prior to that the licence was suspended vide order dated 6.7.2001 as
contained in Annexure 11 to supplementary affidavit filed by the



petitioner. It appears from perusal of Annexure 11 that the order of suspension though was passed in view of the provisions contained in Section 17 (3) (b) of the Arms Act, 1959, however, it is apparent from the order that the aforesaid view was taken by the licensing authority in view of a first information report in Karagahar P.S. Case No. 138 of 2000 which was registered under Sections 147/148/149/323/452/380/307 of the Indian Penal Code as well as 27 of the Arms Act. The petitioner was directed to deposit his fire arm before any arms dealer or the concerned police station. At the same time, vide the aforesaid order itself, show cause notice was issued upon the petitioner as to why his licence should not be revoked. The petitioner, after passing of the order as contained in Annexure 6 approached the appellate authority by filing Appeal No. 221/2006 which was dismissed on the ground that the petitioner has not followed the direction of the licensing authority by depositing his gun and filing the receipt showing the aforesaid fact then the petitioner approached this Court by filing C.W.J.C. No.14001/2008 which was permitted to be withdrawn with a liberty granted to the petitioner to deposit the firearm in light of the order of the Divisional Commissioner dated 21.11.2006 and make a prayer for hearing of the appeal. Thereafter, it appears that the petitioner deposited the weapon on 27.3.2009 and again moved before the appellate

authority. The appellate authority in view of such liberty granted to the petitioner heard him on merit and has rejected the appeal vide impugned order contained in Annexure 10.

Learned counsel for the petitioner submits that though the Karajgahar P.S. Case No. 138/2000 was registered and the petitioner was made accused in that case, subsequently a judgment of acquittal has been passed by a competent court, a copy of which has been appended as Annexure 5. It is urged that though the petitioner has honourably been acquitted as the prosecution could not prove his case by producing any cogent evidence, still the licensing authority has cancelled the licence of the petitioner on the misconceived ground that the acquittal for the lack of evidence is of no value and, unfortunately, the appellate authority has also taken identical stand.

Learned counsel for the petitioner has placed reliance upon a judgment of this Court reported in **Nasim Gorganwi & another vs. The State of Bihar and others [B.L.J. 1996(2) 499]**.

Per contra learned counsel appearing for the State has submitted that though the ground of cancellation of course is involvement of the petitioner in the concerned criminal case and though both the original as well as the appellate authority have stated in their respective orders that the acquittal was merely on the



ground of lack of evidence, however, the petitioner's conduct was also not good as he did not deposit his arms immediately after the direction of licensing authority and the same was deposited after much delay after liberty having been granted by this Court vide Annexure 8. Learned counsel submits that the appellate authority has placed reliance upon a decision of a Kerala High Court reported in **1988 CRI.L.J. 336 [V.K.Thomas v. Revenue Board Member (L.R.)]** in which it has been held that the acquittal in a criminal case, which may be on the ground of perfunctory investigation, an ineffective and inefficient prosecution and thwarting effect which might and money the accused may have in the conduct of the case, would not be good enough ground for arming an undesirable person.

In my view, our jurisprudence is based upon the principle that the prosecution has to prove its case by leading cogent evidence and that has to be proved without all clouds of doubt and, unless the criminal charge is proved, concerned person is merely called an accused and not a convict and further, unless a person is convicted, it cannot be conclusively said that actually he was involved in a particular occurrence or incidence. Of course, as held in **U.K. Thomas (Supra)** by the Kerala High Court, perfunctory investigation, ineffective and inefficient prosecution and thwarting effect of might and money may sometimes lead to acquittal in



criminal cases but one should not forget that there is always possibility of false implication of persons in criminal cases also by the same ineffective and inefficient prosecution. Therefore, in my view the judgments pronounced by the courts should not be allowed to be analyzed and criticized in a statutory proceeding by the licensing authority after the same has attained its finality. That has to be accepted by it otherwise it may lead to a dangerous situation where all the authorities would start showing disregard to the judicial pronouncements and stop respecting the same.

Coming to the case in hand, there is no material available on record which goes to show that the judgment of acquittal has been passed on the basis of perfunctory investigation or the acquittal is a result of the thwarting effect which the might and money may have induced. Unless such materials are on record or that is apparent from the judgment itself, it cannot be understood that there was actually use of such might of power and money by the accused person. The moment no evidence could be produced by the prosecution and acquittal is by a competent court and the same has not been set aside, altered or modified by a competent forum, it has to be understood that the petitioner has been acquitted honourably unless the court itself has pronounced that it is granting benefit of doubt to the accused person. Identical view has been

taken by a Single Bench of this Court in **Nasim Gorganwi (Supra)**.

Relevant passage therefrom is extracted as under:

“11. If that is so, in view of the fact that subsequently the judgments of the Trial Court convicting the petitioners dated 30th of January, 1979 having been set aside in criminal appeals and the petitioners having been honourably acquitted on merit on 13th of October, 1982, it was the duty of the Divisional Commissioner, Gaya, to allow the appeal setting aside the orders of cancellation of licences (Annexure-3), which were based on illegal judgments passed by the trial court.”

The conjoint reading of the order of suspension as contained in Annexure 11 as well as the order of cancellation of licence (Annexure 6) goes to reveal that the basis of passing of such order was alleged involvement of the petitioner in Karahgar P.S. Case No. 138/2000 as there was some allegation. The moment the allegation is not proved it cannot be construed that the petitioner, though is a person of bad character, has been able to obtain a judgment of acquittal in one way or the other. That apart this has also to be understood that several times false cases are instituted in view of political rivalry or other types of rivalry which do not stand the test of the trial.

In my considered opinion, since in the present case the order of suspension and cancellation of licence is based on the sole ground of involvement of the petitioner in a particular criminal case



and such case already has culminated into a judgment of acquittal passed in favour of the petitioner, the cancellation order has to go. A Full Bench of this Court in **Kapildeo Singh Vs. the State of Bihar and others [AIR 1987 Patna 122]** though has stated that the language implied in Section 17(3) (a) and (b) of the Act should be given widest amplitude and it is open to the subjective satisfaction of the licensing authority to assess as to whether the applicant is fit or unfit for grant of licence under the Act, however, at the same time, it has already observed that authority concerned must record in writing the reasons for refusal thereafter and furnish that to the holder thereof and such requirement is inflexibly mandatory. Though in the impugned order the licensing authority has stated that the petitioner is unfit to hold licence and that would not be in the interest of public peace and tranquility but no reason has been assigned for reaching to such conclusion save and except the involvement in the criminal case in which the petitioner has been acquitted of the charges as has been stated above.

So far second case, i.e. Karagahar P.S. Case No. 144/2000 is concerned, in that case no chargesheet has been filed against the petitioner as the petitioner himself is the informant of the case in which his full brother was killed and that has also correctly not been considered in the impugned order against the petitioner but that may

form a ground for grant of licence of to the petitioner indicating imminent threat perception upon him.

As a result, this writ application succeeds. The impugned orders as contained in Annexures 6 and 10 are quashed and set aside. The licensing authority should pass a fresh order in this matter considering the order passed in this case by this Court and other materials available on record in accordance with law within three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

Spd/- AFR

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