

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22729 of 2011

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1. Surendra Singh S/O Ram Deo Singh Resident Of Village- Khopira, P.S-
Pawna, District- Bhojpur. (Ara).... Petitioner/s

Versus

1. The State Of Bihar Through Commissioner, Patna, Division, Patna.
2. The District Magistrate, Bhojpur At Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Suresh Rai, Sr. Advocate

For the Respondent/s : Mr. Sudhir Kumar –A.C. to A.A.G.-2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

5 14-09-2015

I.A. No.7709 of 2015 has been filed by respondent no. 2

for extension of time for depositing the cost which was incorrectly deposited before the Legal Services Authority, Patna High Court on 07.09.2015. It is submitted that more time would be required to withdraw such amount and deposit it in favour of the petitioner.

However, in my opinion, the cost should be immediately be deposited in favour of the petitioner without waiting for the withdrawal of the amount and, thereafter, the same may be withdrawn in view of the direction contained in the order dated 08.09.2015 within a period of 10 days.

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

The order dated 23.10.2009, as contained in Annexure-4, passed by the District Magistrate-cum-Licensing Authority, Bhojpur, Ara and the appellate order dated 30.11.2011 as contained in Annexure 1 are under challenge by which the

Licensing Authority has cancelled the petitioner's Fire Arms Licence No. 62/58. The Appellate Authority has also affirmed the aforesaid order and has rejected the same.

Learned counsel for the petitioner has submitted that in fact the Licence No. 62/58 was granted to the grandfather of the petitioner for carrying the D.B.B.L. gun, however, after his death, Licence No. 60 of 93 was issued in favour of the petitioner and the same has been cancelled by the impugned order though the order mentions number of licence which was granted in favour of the grandfather of the petitioner in the year 1958. It is contended that the order has again been passed by the Licensing Authority without applying its mind and without holding a proper enquiry. Even in the counter affidavit, it stands stated that the petitioner Surender Singh was the licensee of the D.B.B.L. gun under Licence No. 62/58 which is on face of record is an incorrect statement.

Learned counsel for the State submits that it has been stated in paragraph no. 9 of the counter affidavit that the licence No. 62/58 was granted to the grandfather of the petitioner and, after his death, licence no. 60/93 was granted to the petitioner. Apparently, licence no. 60/93 has not been cancelled by the Authority by the impugned order which shows a serious lapse on the part of it in dealing with the matter.



However, even if it is assumed that actually 60/93 has been cancelled by the Licensing Authority, the order impugned having been passed on 23.10.2009 apparently after about nine years of passing of Annexure-3 by which the petitioner has been acquitted of the criminal charges in the year 2000 itself with respect to Sandesh P.S. Case No. 35/95 and 45/95 which is not being denied by the learned counsel for the State as there is nothing on record to show that the petitioner is still involved in criminal cases, the question would be as to how on the basis of such cases in which the petitioner has either been acquitted or he was even not made an accused, his licence could have been cancelled vide Annexure-4?

In the counter affidavit, it has been stated that the petitioner has never produced any document in that connection showing his acquittal or his non-involvement in a case. This limb of submission made on behalf of the respondent is noted to be rejected for the reason that while considering the cancellation of licence, the respondent authorities were duty bound to make an inquiry and consider each and every aspect of the matter. They cannot pass any order on the basis that if a person is named in the First Information Report but even if he has not been chargesheeted, he can be considered to be an accused in the particular case.

In my considered opinion, serious lapse has been committed by the Licensing Authority in passing the ex parte order in the Cr. Misc. No. 23/95. The order appears to have been passed without any proper inquiry and without making any endeavor to know about the actual and present status and, as such, both the Annexures 4 and 5 are quashed and set aside. The matter is remanded back to the Licensing Authority to take a fresh decision in accordance with law. Considering the petitioner's claim of acquittal for the criminal charges and his non-involvement as accused in another case, the petitioner would be required to submit all the documents in support of his contention. The Licensing Authority would be required to pass a reasoned order after consideration of the same within a period of two months from the date of receipt/production of a copy of this order.

This application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

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