

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4138 of 1995

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Rabindra Sharma son of Shri Shaligram Sharma, , resident of village
Bhudsara, Police Station Pali (Kako), District Jehanabad.

.... Petitioner/s

Versus

- 1.The State of Bihar.
- 2.The Commissioner, Magadh Division, Gaya.
- 3.The District Magistrate, Jehanabad.
- 4.The Superintendent of Police, Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv with Mr. Md.
Imteyaz Ahmad, Adv

For the Respondent/s : Mr. Sunil Kumar Ravi AC to AAG-III

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

7 30-01-2015 Heard learned counsel for the parties.

Having regard to the fact that the petitioner in this writ application assails an order dated 10.04.1995/19.04.1995 passed by the Commissioner of Magadh Division in Case No. 21 of 1994 by which the appeal preferred by the petitioner against the order of Collector, Jehanabad cancelling his arms licence has been upheld only on the ground that his son has allegedly used his licensee rifle in a case of attempt to murder under Section-307 I.P.C. and that ultimately the son of the petitioner was acquitted by the trial Court by judgment dated 01.06.2001 (Annexure-8), Mr. Ajai



Kumar Thakur, learned counsel for the petitioner submits that the same would itself make two orders of cancellation of arms licence of the petitioner unsustainable both on fact and in law. In this regard, learned counsel for the petitioner places reliance on the judgment of the Apex Court in the case of National Capital Territory of Delhi vs Umesh Kumar reported in AIR 2008 SC 2918.

Learned counsel for the State on the other hand while supporting the impugned order passed by the Collector of Jehanabad district and also its being affirmed in the appeal by Divisional Commissioner has submitted that subsequent acquittal of the petitioner in the criminal case will not mean that the date on which the licence of the petitioner was cancelled on the ground of its being allegedly used in respect of criminal offence by the son of the petitioner, such order was bad even on that date. He also explains that the petitioner being the licensee was supposed to even not allow access of his rifle to his son for its being used by him.



In the considered opinion of this Court, subsequent acquittal earned by the son of the petitioner in the criminal case cannot change the ground on which the arms licence of the petitioner was cancelled by the Collector of Jehanabad district which was affirmed by the Commissioner of Magadh Division while upholding the order of the Collector.

Admittedly, the son of the petitioner while using the licensee rifle of the petitioner had no permission under Rule-13 of the Arms Act, 1962 and thus the order of cancellation of licence of the petitioner cannot be said to be bad. It is this aspect of the matter, which has been also considered by the appellate order in the impugned appellate order while affirming the order of the Collector of the district.

Thus while this Court having perused the two impugned orders passed by the Collector of Jehanabad district and its affirmance by the Commissioner of Magadh Division in relation to cancellation of arms licence of the petitioner does not find any error therein,



it will definitely accede to prayer of learned counsel for the petitioner that if now under the changed circumstances when the son of the petitioner had been given acquittal in the criminal case by judgment dated 01.06.2001, the petitioner may be allowed to approach the authorities for grant of fresh licence to the petitioner in accordance with law.

Liberty is also given to the petitioner to make prayer for release of the rifle in view of subsequent development of acquittal of his son but then it is again made clear that this Court does not find any error either in the order cancelling the licence of the petitioner passed by the Collector of the district in Case No. 23 D.M./93-94 or the order passed by the Commissioner, Magadh Division dated 10.04.1995/19.04.1995.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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