

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6133 of 1997

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Bhikhari Singh @ Yadav son of Shri Ram Prasad Singh, resident of village-Akorhi, PS-Rajpur, District-Buxar. Petitioner/s

Versus

1. The State of Bihar
 2. The Commissioner, Patna Division at Patna
 3. The District Magistrate, Buxar Respondent/s
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Appearance :

For the Petitioner/s : Mr. Ras Bihari Thakur, Adv.
For the Respondent/s : Mr. Syed Arshad Alam, SC-3
Mr. Mahtab Alam, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-02-2015

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is challenging the order of Collector, Buxar dated 9th August 1994 passed in Case No. 67 of 1993 thereby cancelled Licence No. 335 of 1993 and order dated 23rd May 1995 passed in Arms Appeal No. 150 of 1994 by the Divisional Commissioner.

It appears that a criminal case vide Case No. 2 of 1991 was instituted against the son of petitioner and some other persons that they forming unlawful assembly, assaulted, committed robbery at 4 P.M. and looted away the harvest. In the said incident, Birendra Singh son of petitioner took out his licensee gun and threatened the villagers.

On 9th September 1993, there was a direction to the



petitioner to deposit his gun to the Officer Incharge, Rajpur and a report was sought by the Superintendent of Police, Buxar. In course of argument, the Collector sought an explanation from the petitioner about the deposit of the gun in the police station whereupon the petitioner failed to satisfy the Collector which led to cancellation of his licence of gun.

Licence can be cancelled on the ground mentioned in Section 17 of the Arms Act, merely because the petitioner could not satisfy as to whether he has deposited the gun in the police station, cannot be a criteria for cancellation of his licence, so much so that the petitioner has shown the document in support of his claim that he deposited double barrel gun on the direction of the Superintendent of Police in the police station, Rajpur.

The ground that has been assigned by the Collector is misconceived and misdirected inasmuch as the order of Divisional Commissioner being an Appellate Authority he too also rejected the appeal of the petitioner vide order dated 23rd May 1995 in Arms Appeal No. 150 of 1994 without properly examining his case. The Commissioner has also not gone to the merit of the matter and in a mechanical manner rejected the appeal of the petitioner.

In such view of the matter, the order of Collector dated 9th August 1994 passed in Case No. 67 of 1993 and order of

Commissioner dated 23rd May 1995 passed in Arms Appeal No. 150 of 1994 are hereby quashed and the matter is remanded back to the Collector to pass a fresh order in accordance with law.

With the above observation/direction this petition is allowed.

(Shivaji Pandey, J)

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