

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15448 of 2012

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1. Md.Israil S/O Abdul Hakeem Resident Of Village Dumri, P.S-Gobindpur, District- Nawadah.

.... Petitioner/s

Versus

1. The State Of Bihar Through The District Magistrate Cum Collector, Nawadah.
2. The District Magistrate Cum Collector, Nawadah.
3. The District Arms Magistrate, Nawadah.
4. The Commissioner, Cum Appellate Authority Magadh Division, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anwar Karim

For the Respondent/s : Mr. Harish Kumar GP-32.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 07-09-2015 Petitioner seeks quashing of the order dated 09.04.2007 passed by the Licensing Authority-cum-District Magistrate, Nawada as well as the order of the appellate authority dated 27.10. 2011 passed in Appeal No. 10/011 by the Commissioner Magadh Division, Gaya annexures-2 series and 3 respectively.

From perusal of the order passed by the District Magistrate, it appears that the licence was firstly suspended on the ground that the same was not produced for its verification within the stipulated period during Panchayat election 2006 and a notice was issued to the petitioner to show cause as to why his licence not be cancelled. Both are part of order dated 25.04. 2006. It

appears from annexure-3 and annexure-A appended with the counter affidavit that the petitioner could not produce the weapon for its verification within the stipulated time, therefore, his licence was suspended with immediate effect and further he was directed to show cause.

From the order it further appears that the licence of the petitioner has been suspended on the ground that there was clear evidence that the petitioner resides at Calcutta but the weapon was being kept at home at Nawada. It is clear from the aforesaid order as well as annexure-1 which is the copy of the licence that the petitioner's weapon was checked and verified on 15.04.2006 which has not been denied by the respondents. However, at the same time it is also admitted position that the firearm could not be verified within the time prescribed for that purpose and for which his licence has been suspended.

The petitioner has filed his reply to the show cause notice taking a ground that at that time he was at Calcutta in connection with treatment of his wife. However, the licensing authority has come to the conclusion that the petitioner always resides at Calcutta and keeps his arms at Nawada but it is nowhere stated in the order as well as in the counter affidavit as to what were the evidences or the materials which were available

before the licensing authority for reaching to such conclusion .
The petitioner has filed reply to the counter affidavit bringing on record the Xerox copy of the Adhar Card issued by the competent authority as well as the identity card issued by the Election Commission to show that he resides at Nawada. The appellate authority has also dismissed his appeal on the ground that it is barred by limitation and however, it has not been recorded as to why the ground of treatment of his wife at Calcutta could not find favour with the appellate authority.

In my view, both the order cannot be sustained in the eye of law and, accordingly, both the orders are quashed.

Let the licensing authority take a fresh decision in the matter after granting reasonable opportunity to the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order.

The application stands allowed.

(Dr. Ravi Ranjan, J)

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