

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7389 of 2015

=====

1. Ram Nagina Tiwary @ Nagina Tiwary son of Late Kuldeep Tiwary Resident of village- Palaundha, P.S.- Chenari, District- Rohtas.
2. Radhey Shyam Tiwary son of Late Ghuru Tiwary Resident of village- Palaundha, P.S.- Chenari, District- Rohtas.

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Superintendent of Police, Rohtas at Dehri-on-sone.
5. The Officer-in-charge, chenari Police Station, District- Rohtas

.... Respondents

=====

Appearance :

For the Petitioners : Mr. Rajani Kant Singh, Advocate

For the State : Ms Divya Verma, AC to AAG 3

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-09-2015

I have learned counsel for the petitioners and the State.

Despite the copy of the writ application having been served upon the State on 01.05.2015, no counter affidavit has been filed on behalf of the State.

However, in view of the nature of the order which is going to be passed, the matter is being considered and disposed of today without waiting further for filing counter affidavit.

This is the second time that the petitioner has approached this Court by filing the present writ application as the petitioner had earlier filed C.W.J.C. No. 20814 of 2012 which was disposed of vide order dated 07.11.2012 by setting aside the appellate order and remitting back the matter in the light of judgment of acquittal dated



07.07.2003, however, the Commissioner, Patna Division has again rejected the appeal on the ground that merely acquittal in a criminal case is not sufficient for retaining a firearm licence citing a decision of the Kerala High Court rendered in **V.K. Thomas v. Revenue Board, Member(1988 Cr.L.J. 336(Kerala))**.

In the present case, in view of the petitioner's involvement in Chenari Police Station Case No. 60/93 under sections 147, 148, 149 and 307 of the Indian Penal Code and section 27 of the Arms Act and Chenari Police Station Case No. 61/93 registered under sections 147, 148, 149 and 302 of the Indian Penal Code and section 27 of the Arms Act, the petitioner's licence was cancelled. So far Chenari Police Station Case No. 61/93 is concerned, it is contended that that the petitioners are not accused in that case as the same was lodged for murder of their maternal uncle. So far Chenari Police Station Case No. 60/93 is concerned, it is contended that the petitioners have been honourably acquitted of the criminal charges. It is contended that, since the foundation for cancellation of the licences has gone, it was apt for the respondent authorities to reconsider the cases of the petitioners for grant of arms licences but the appellate authority, in view the decision of the Kerala High Court in **V.K. Thomas (supra)**, has held that the acquittal in criminal case would not bar the authorities from revocation of the licence of the

petitioners.

The question was not of imposing bar upon the licensing authority rather the question was for reconsideration of the matter as the charges upon which the licences of the petitioners were cancelled, have not been found to be true by a competent court and no other ground has been taken by the authority for holding that the petitioners, in view thereof, are still not entitled for a licence.

Accordingly, I set aside the order passed by the appellate authority. However, in view of the subsequent development the order passed by the licensing authority is not required to be quashed as the petitioners have subsequently been acquitted of the criminal charges. Thus, the matter is remitted back to the licensing authority to consider the cases of the petitioners either for grant of arms licences to them or for revocation of the order of cancellation of licences of the petitioners in accordance with law in view of acquittal of the petitioners from the criminal charges. It is expected that the whole exercise would be completed within a period of four months from the date of receipt/production of a copy of this order.

As a result, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

SC/-

U			
---	--	--	--