

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20739 of 2013

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1. Ram Padarath Choudhary S/O Late Ram Baran Choudhary Resident Of Village+ P.O- Balha, P.S- Parbatta, District- Khagaria.
 2. Akhilesh Choudhary S/O Late Ram Baran Choudhary Resident Of Village+ P.O- Balha, P.S- Parbatta, District- Khagaria.
 3. Ramanand Choudhary S/O Satya Narayan Choudhary Resident Of Village+ P.O- Balha, P.S- Parbatta, District- Khagaria.

.... Petitioner/s

Versus

1. The State Of Bihar Through Ts Secretary (Home), Govt. Of Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The Officer- in- Charge, Parbatta Police Station, District- Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar

For the Respondent/s : Mr. Ujjwal Kumar Sinha, A.C. to A.A.G.XI.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 13-10-2015 Heard the learned counsel for the petitioners and the State.

The petitioners seek direction to the respondent authorities to release their licensed fire arms which was deposited in view of the direction given by letter dated 22.8.2010 contained in Annexure-1 series.

A counter affidavit has been filed on behalf of the respondent no.2 taking stand that the respondent no.3, i.e., the Officer-in-Charge, Parbatta Police Station had directed the petitioners to deposit their arms in the light of prevailing circumstances related to communal harmony and at present the



matter is pending for no objection by the S.P., Khagaria as he is the competent authority to assess the prevailing circumstances on the spot for which letter no 827 dated 28.05.2013 and letter no.1265 dated 31.08.2013 were sent by the S.D.C., General Section, Khagaria. However, the counter affidavit does not disclose as to under what circumstance without such assessment and without raising such issue, the respondent the District Magistrate, Khagaria could concede before in C.W.C.J.No.14547 of 2010 that weapon of the petitioner would be released which was also seized in view of the same situation prevailing in the District of Khagaria. It appears that vide order dated 2.2.2012 passed in C.W.J.C. No.16971/11 contained in Annexure-6 a Single Judge Bench of this Court had directed the District Magistrate, Khagaria, to release the firearm of the petitioner. Still in the present case a stand has been taken that the situation has not been assessed as yet and, any other such assessment, a decision would be taken with respect to the release of the firearms of the petitioners. If such situation is still continuing since 22.8.2010 till date even after expiry of about 5 years, then, in my view the District Administrator is to be blamed and not the petitioners. No charge against them is also there of abating such situation. Thus, in my view, the direction itself to deposit the gun vide Annexure-1 and

Annexure1/A without following any procedure of law or without taking any decision after proper notice upon the licensee was not lawful.

Thus, having regard to the facts and circumstances of the case, the District Magistrate, Khagaria, is directed to release the firearms of the petitioners after declaration of result of the ensuing elections.

(Dr. Ravi Ranjan, J)

AnilKrSinha/-

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