

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.794 of 2001

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Ramjit Singh, son of Sri Ram Chandra Singh, resident of Village-Kusdihra, P.S.
Kargahar, District Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Rohtas (Sasaram)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. T. N. Matin, Sr. Advocate.

Mr. Yogendra Kumar, Advocate.

For the Respondent/s : Mr. Awanish Nandan Sinha, G.P.XI

Mr. Shubhankar Sharma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-03-2015

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

In the present writ petition, petitioner is challenging the
order dated 4.12.2000 passed in Arms Appeal No. 132 of 1999
by the Commissioner, Patna Division, Patna whereby he has
affirmed the order dated 10.8.1999 passed in Arms Case No.86
of 1981 by the District Magistrate, Rohtas (Sasaram) by which
he has cancelled arms licence of the petitioner.

From the record it appears that an FIR was lodged
against the petitioner and others making an allegation that there
was dispute over the property in which mother of Dashrath
Singh Yadav informant of Kargahar P.S. Case No.159 of 1981,



G.R. No.1960 of 1981 died due to fire arm injury, that led to suspension of his arms licence and accordingly Arms Case No. 86 of 1981 was initiated. In Sessions Trial No. 378 of 1991 the petitioner and others were put on trial as all the prosecution witnesses turned hostile even the informant could not stand to the earlier version that led to acquittal of all the accused persons including the petitioner. Thereafter the Collector has proceeded in the matter and cancelled arms licence of the petitioner on the ground that in that incident one Raj Muni Devi mother of the informant of the aforesaid case had died which indicates violation of terms of licence and made them disentitled for keeping the fire arms with them and accordingly the licence was cancelled.

Petitioner has filed an appeal before the Divisional Commissioner, Patna vide Arms Appeal No.132 of 1999 and 138 of 1999 and the Divisional Commissioner, Patna vide its order dated 4.12.2000 affirmed the order of the Collector.

Submission has been made that licence was suspended and ultimately cancelled the same on account of involvement of the petitioner in a criminal proceeding. Judgment of criminal trial does not show his involvement or involvement of his son in that incident and the order passed by the Collector is illegal and

misdirected as the basis itself is non-existence. He has further submitted that he cannot be deprived of licence of arms even after his clean acquittal in the criminal proceeding and the Collector can not take an inference without any basis showing his implication in the death of Raj Mani Devi. The order of the Divisional Commissioner suffers from same illegality.

Learned counsel for the State tried his best to justify the order of the Collector as well as Divisional Commissioner but the fact remains that licence of the gun of the petitioner was cancelled on account of his involvement in a criminal proceeding. In the trial the prosecution could not produce any witness to support the incident involving the petitioner. There is nothing to show that petitioner has actively involved in the death of Raj Mani Devi and that ultimately resulted in the acquittal of the accused persons. When the informant itself has turned hostile there was none to save the trial. When the petitioner has been acquitted the basis for passing the order of cancellation of licence itself wiped out.

In such view of the matter, the order dated 10.8.1999 passed the Collector, Rohtas as well the order dated 4.12.2000 passed by the Divisional Commissioner, Patna are set aside. The matter is remanded back to the Collector, Rohtas for passing an

order in accordance with law.

Accordingly this writ petition is allowed with the
aforesaid observation.

(Shivaji Pandey, J)

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