

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10641 of 1998

Chinawati Devi wife of Sri Mahendra Sharma, resident of Mohali Shaidpur,
College Road, Munger, PS-Kotwali, District-Munger.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
 2. The Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
 3. The Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
 4. The Deputy Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
 5. The State of Bihar through its Secretary, Department of Home (Police), Patna.
 6. The Joint Secretary, Department of Home (Police), Patna.
 7. The District Magistrate, Patna
 8. (a) Savitri Rana wife of Bharat Chand Rana
(b) Amar Rana son of Bharat Chand Rana
 9. Nawal Chandra Rana
 10. (a) Neelam Rana wife of Naresh Chand Rana
(b) Chetan Rana son of Naresh Chand Rana
(c) Paramjeet Rana son of Naresh Chand Rana
 11. Dinesh Chandra Rana
 12. Umesh Chandra Rana
- Respondent nos. 8 to 12 are residents of Chowa Bagh, PS-Kasim Bazar,
District-Munger. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shyama Pd. Mukherjee, Sr. Adv.
Mr. Gayanand Roy, Adv.
For the UOI Mr. Awadesh Kr. Pandey, SCGC
Mr. Ravindra Kumar Sharma, CGC
For the State Mr. Sunil Kumar Ravi, AC to AAG-III

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-05-2015

Heard the parties.

In the present case, the petitioner is challenging the order
dated 9th September 1998 whereby and whereunder the Union of India
has rejected the application of the petitioner for allowing her to

manufacture rest another 74 double barrel guns on the ground that 50% share had gone to her sister Sakuntala Devi, daughter of Manki Devi.

It appears that M/s Ayodhya & Company was established by one Ayodhya Mistri who had a licence of manufacturing the 147 guns and after his death, his wife Manki Devi succeeded to the Estate of Ayodhya Mistri and started manufacturing the 147 double barrel guns. During her life time, she filed an application to incorporate Chinawati Devi as additional proprietor which was processed and approved by the District Magistrate vide letter no.2883/G dated 6.5.1976 (Annexure-2) where he recorded the desire of Manki Devi.

It appears that the State Government, vide letter no. 15174 dated 14th December 1977, also recommended the incorporation/inclusion of the name of Chinawati Devi as co-proprietor but by that time, the Union of India could have taken its decision, Manki Devi died on 1st January 1977 and her Estate was divided in two parts, 50 : 50% in the year 1992 to her both daughters, namely, Chinawati Devi and Shakuntala Devi.

The Government of India authorised Chinawati Devi to manufacturing 74 double barrel guns and equally Sakuntala Devi was also allowed to manufacturing equal number of the guns but



Sakuntala Devi has died on 11th February 1997. After the death of Sakuntala Devi, her sons applied for transfer of licence which was given to their mother with respect to manufacturing of 74 guns but the Union of India rejected their claim, vide order dated 10th May 1999, in which it has been recorded that the Union of India was not aware that Sakuntala Devi was already a licence holder and manufacturing the guns in the name and style of Mr. M. Chand & Company. Under the Policy decision, second licence would not have been granted to her on that ground, the application of the sons of Sakuntala Devi was rejected on the ground, they are the Proprietor of Mr. M. Chand & Company and running their respective business of manufacturing of gun.

The counsel for the petitioner submits that petitioner filed an application for allowing her to manufacturing rest 74 guns which was given in the name of Sakuntala Devi in view of the decision taken by the Union of India on 10th May 1999 in case of sons of Sakuntala Devi, claiming that sons of Sakuntala Devi cannot have a second licence for manufacturing the similar type of gun, as per the policy decision of the Union of India, no person can have a double licence for manufacturing the similar type of gun and, as such, Chinawati Devi should be treated to have succeeded completely to Manki Devi with respect to manufacturing the total number of 147

guns. The counsel for the petitioner has further submitted that the reason assigned by the Union of India is based on wrong fact and law which requires interference.

In the counter affidavit, the Union of India has tried to justify the bifurcation of licence manufacturing the 74 guns i.e. 50 % of 174 to each of the daughters of Manki Devi on the basis of a decision of Sub Judge, Munger deciding 50% share of Sakuntala Devi over the Estate of Manki Devi but the stand that has been taken by the Union of India runs contrary to the order dated 10th May 1999 where they have themselves taken a plea that Sakuntala Devi was wrongly granted the licence as she was already a licence holder, there could not have been second licence to Sakuntala Devi.

In such situation, this Court is of the view that order dated 9th September 1989 suffers from illegality on fact and law which requires interference by this Court.

Accordingly, the order dated 9th September 1998 is quashed and the matter is remanded back to the Union of India to consider the case of the petitioner whether she is still entitled to manufacturing rest 74 guns in view of the fact that Sakuntala Devi died and sons of Sakuntala Devi do not have a right to manufacturing the rest 74 guns which was earlier allowed to her mother.

However, the petitioner is directed to file a fresh

application to the Union of India and the Union of India will take a decision in the case of the petitioner within a period of four months from the date of filing of the representation.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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