

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5123 of 1999

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1. Dharm Deo Choubey son of Sri Ram Dular Choubey, resident of village- Karauddi, P.S. Sanhan, District- Kaimur (Bhabhua).
 2. Ram Ekbal Singh son of Sri Munni Singh, resident of village- Joge-Baraon, P.S. Sonhan, District Kaimur (Bhabhua).

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Pandey
Mr. Ashok Kumar Pandey

For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 17-07-2015

Heard learned counsel appearing on behalf of the petitioners. None appears on behalf of the respondents, though a counter-affidavit has been filed on behalf of the respondent no. 2 and 3.

2. The petitioners have filed the present application under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 07.10.1997 (Annexure-5) passed in Arms Case No.26 of 1996 by the respondent District Magistrate, Rohtas (Sasaram), whereby arms licence of the petitioners have been cancelled primarily on two grounds that they violated the terms and conditions of the arms licence issued to them and secondly they allegedly committed a crime, which gave rise to Sasaram P.S. Case No. 229 of 1996, G.R. No. 860 of 1996, F.I.R. of which has been brought on record as Annexure-2 to the writ petition, in which the petitioners, besides others, were arraigned as accused. The petitioners,

being aggrieved by the aforesaid order, preferred Appeal No. 123 of 1997-98, which was finally dismissed by the respondent Divisional Commissioner, Patna, by the impugned appellate order dated 22nd February, 1999 (Annexure-6).

3. Learned counsel appearing on behalf of the petitioners submits that the petitioners were falsely implicated in the aforesaid criminal case, in which they have, now, been acquitted by the learned trial court by the judgment and order dated 19th February, 2009 (Annexure-7). He contends that in view of acquittal of the petitioners in the aforesaid criminal case, the orders impugned are liable to be set aside by this Court.

4. Indisputably, in the year 1996 a criminal case was lodged against the petitioners as also their family members for misusing the arms for which licence was issued to the petitioners. The arms licence was originally suspended by the licensing authority and thereafter show cause notice was issued to the petitioners as to why their licence be not cancelled for violation of terms and conditions of licence and for being accused in a criminal case. The show cause filed by the petitioners were not found satisfactory and, therefore, after giving an opportunity of hearing, by the impugned final order dated 07.10.1997, their arms licence was cancelled by the respondent District Magistrate. The order of cancellation has been affirmed by a reasoned order passed by the appellate authority. Indisputably, when the impugned orders were passed, the petitioners were still accused in the aforesaid criminal case and they had violated the terms and conditions of the licence. Therefore, the impugned order, as contained in Annexure-6 cancelling the arms licence of the petitioners cannot be legally faulted merely on the ground that subsequently they have been acquitted in the aforesaid criminal case in the year 2009 by giving

them benefits of doubts. Learned counsel appearing on behalf of the petitioners has not been able to point out any legal infirmity or procedural irregularity with respect to the impugned original order as contained in Annexure-5 and the impugned appellate order as contained in Annexure-6.

5. In above view of the matter, this Court does not find any good ground to interfere with the impugned orders. However, since the petitioners have, now, been acquitted in the aforesaid criminal case, they can of course apply afresh for issuance of arms licence. If such an application is filed, then the same shall be considered by the competent authority in accordance with law.

6. The writ petition stands dismissed with the observations made above.

(Birendra Prasad Verma, J)

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