

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21820 of 2011

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Ram Pravesh Mishra S/O Shri Jai Kumar Mishra R/O Village Sisrit, P.S. Nokha,
Distt. Rohtas

.... Petitioner

Versus

1. The State Of Bihar
2. The Court Of Commissioner, Patna, Commissionery, Patna.
3. The District Magistrate, Rohtas, Sasaram, Rohtas

.... Respondents

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Appearance :

For the Petitioner : Mr. Vishwajeet Kumar Mishra, Advocate
For the State : Mr. ASHOK KUMAR KESHRI, AAG 11
Mr. Ujjwal Kumar Sinha, AC to AAG 11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-09-2015

I have heard the parties.

The petitioner is aggrieved by the order dated 28.11.2008 passed by the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram by which his arms licence no. 5/84 for N.P. bore rifle has been cancelled in view of the involvement of the petitioner's relatives in two cases, one in Chenari Police Station Case No. 4/03 under sections 26/29/30/35 of the Arms Act, 1959 and another being Sasaram(T) Police Station Case No. 382/02 under sections 302/34 and 120B of the Indian Penal Code and section 27 of the Arms Act. The petitioner also challenges the appellate order dated 25.06.2011 passed in Arms Appeal No. 89/2009 by the Divisional Commissioner, Patna, by which he has upheld the order of the licensing authority and

dismissed the appeal.

It is submitted on behalf of the petitioner that he is not involved in any of the cases, however, his son was involved in both the cases with an allegation that he was holding the rifle for which licence has been given in the name of the petitioner. It is urged on behalf of the petitioner that so far Sasaram(T) Police Station Case No. 382/02 is concerned, in that case all the accused persons have been acquitted of the charges as the prosecution miserably failed to bring home the charges levelled against them. It is contended that so far the other case registered under the Arms Act is concerned, there is no allegation of use of the firearm and though the trial is pending, the firearm which was seized, has been released by the court concerned and bail has been granted to the son of the petitioner.

A counter affidavit and a supplementary counter affidavit have been filed on behalf of the State respondents stating that the judgment of acquittal has been passed subsequently and the order concerned cannot be faulted with as, admittedly, at that point of time, there was allegation of involvement of the son of the petitioner and also regarding the use of rifle of the petitioner that has been released in the concerned case later on.

Be that as it may, in view of the admitted position that now there is a judgment of acquittal in favour of all the accused persons in



the case registered under section 302 of the Indian Penal Code and further in the case registered under the Arms Act, the concerned firearm has already been released and the son of the petitioner is on bail, and further, the case of the petitioner is that his son was not involved in the case registered under the Arms Act rather he was carrying the rifle upon the direction of the petitioner, let the petitioner file a fresh application before the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram, who shall take a decision on its own merit and in accordance with law considering all the subsequent developments within a period of four months from the date of receipt/production of a copy of this order.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

SC/-

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