

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17302 of 2015

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Amresh Rai, son of Late Bahor Rai, resident of village- Rachiyahi, Purani Tola,
P.S.- Matihani, District- Begusarai

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Election Officer, Begusarai
3. The Superintendent of Police, Begusarai
4. The Arms Magistrate, Begusarai

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate
For the Respondent/s : Mrs. Nivedita Nirvikar, GA-10
: Mr. Manoj Kumar, AC to GA-10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 24-11-2015

I have heard learned counsel for the petitioner and the
State.

The petitioner is aggrieved by Annexures 2 and 3 by
which the District Screening Committee has taken a decision without
issuing notice or granting reasonable opportunity to the petitioner to
cancel arms licence of several persons including the petitioner.
Thereafter, a formal order vide Annexure-3 has been issued by the
District Election Officer-cum-District Magistrate, Begusarai
cancelling the arms licence of four persons including the petitioner on
the ground that the petitioner is involved in Baruni Refinery P.S. Case
No.263/99 registered for the offences punishable under Sections 386,

341, 324, 379/34 of the Indian Penal Code.



Learned counsel appearing for the petitioner assails the aforesaid orders on several grounds. It is contended that both the orders have been passed without granting reasonable opportunity to the petitioner as no show cause notice was ever issued either by the Screening Committee or by the licensing authority. It is next contended that the Arms Act does not contemplate any Screening Committee for the purpose of grant or refusal of licence under Sections 13 and 14 of the Arms Act, 1959 (hereinafter referred to as “the Act”) or for cancellation of licence under Section 17 of the Act. The Committee though is headed by the District Magistrate but cannot be said to be a licensing authority under the Arms Act and, as such, the order is without jurisdiction. It is next contended that though a ground has been taken that the petitioner’s licence is being cancelled in view of his involvement in a criminal case but he has already been acquitted of the criminal charges by a competent court vide Annexure-1 in the year 2006 itself, therefore, on that ground the impugned orders are liable to be set aside.

Mrs. Nivedita Nirvikar, learned G.A. 10 submits that in fact the annexure 2 is merely a recommendation and not a decision by the Screening Committee. Secondly, it is contended that even if it is assumed that it is a decision then again the District Magistrate being



the Chairman of the Committee, the same cannot be held to be without jurisdiction, however, she is not able to answer the issue as to how the orders could have been passed without issuing any show cause notice for cancellation of arms licence and also how the same could be passed in view of the involvement of the petitioner in a criminal matter in which judgment of acquittal has already been passed in his favour.

In above view of the matter, in my considered view, the orders impugned are not sustainable. Even though the District Magistrate is the licensing authority but under the scheme of the Arms Act, he himself is solely empowered/authorized to apply his mind and take a decision with respect to grant, refusal, suspension or cancellation or revocation of arms licence. He cannot resort to a collective decision involving others for the aforesaid purpose which appears to have been done under Annexure-2 and Annexure-3 being a consequential order having been passed by him in view of the decision taken by the so-called District Screening Committee which is not a statutory body or the authority. That apart, non-issuance of show cause notice before the order of cancellation has also badly affected the petitioner in view of the fact that he has come up with a case before this court that in the concerned criminal case, a judgment of acquittal has already been passed by a competent court vide

Annexure-1 in the year 2006 itself which has not at all been considered. Had the show cause notice been issued upon the petitioner, the aforesaid facts could have been brought to the notice of the licensing authority by him.

Accordingly, this writ application succeeds. The orders impugned as contained in Annexure-2 and 3 are quashed and set aside so far it concerns the petitioner. The matter is remitted back to the District Magistrate-cum-licensing authority, Begusarai to take a fresh decision in the matter after granting reasonable opportunity to the petitioner within two months from the date of receipt/production of a copy of this order.

It is made clear that since learned counsel has submitted that the firearm concerned has been deposited with the Arms Dealer, there would not be automatic release as its release would depend upon the nature of order which would be finally passed by the licensing authority.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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