

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8969 of 2015

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Babu Ram Prasad Son of vishwanath Prasad resident of Village Chakwa, P.o & P.s
Nautan Distt Siwan

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate Siwan, P.O. & Distt Siwan,
2. The district Magistrate (District Arms Magistrate), Siwan, P.O. Siwan District Siwan,
3. The Commissioner, saran Division being appellate Authority under Armas Act, AT P,O chapra Dist Saran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Nand Kishore Singh, Advocate

For the State : Mr. Alok Ranjan, AC tto GA 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-10-2015

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

Petitioner seeks quashing of Annexure 5 dated 06.04.2005 passed by the District Magistrate-cum-Licensing Authority, Siwan cancelling the licence of the petitioner which was granted to him for N.P. Bore Rifle on the ground that he did not respond to the notice published in newspaper by filing affidavit that he is not involved in any criminal case. A direction was given to the licensee to immediately deposit the firearm in the concerned police station. The concerned police station was directed to serve the impugned order upon the concerned licensee and seize the firearms. The appellate authority vide Annexure 6 dated 23.06.2014 has dismissed the appeal preferred by the petitioner against the

aforesaid order on its being hopelessly time barred as the same was filed after nine years.

Petitioner's case is that he was having licence for the State of Bihar only but, in view of the business work, he was required to go outside the State for long period. Therefore, he deposited his firearm with the arms dealer, namely, India Gun House, on 14.07.2004. Copy of the licence has been appended as Annexure 1 upon last page of which there is an endorsement made by the Sub-Divisional Magistrate along with his seal in this regard. It is further stated that as the petitioner was outside the State, there was no question of his responding to any notice published in the newspaper of the State of Bihar and, therefore, the order itself was bad as the same was passed without issuing any show-cause notice and without holding that the petitioner stands implicated in any criminal case. It is further contended that the factum of the impugned order dated 06.04.2005 remained unknown to the petitioner inasmuch as he had remained outside the State, however, he continued to deposit renewal fee up to the year 2009. In support of the same, he has appended Annexure 2 which is a copy of the challan. It is further stated that due to serious ailments he had to remain stationed at Lucknow till 2013 for his treatment. The petitioner came back to the State of Bihar in the year 2013 and



enquired about the position of his arms and also status of renewal of the licence. Despite every attempt taken by the petitioner, no specific information was given by the licensing authority, therefore, the petitioner was compelled to file an application under the Right to Information Act for the same. An information was provided to him along with the impugned order showing that his licence has been cancelled vide Annexure 4 dated 30.01.2014. Thereafter, the petitioner preferred Arms Appeal No.86 of 2014 along with the petition for condoning the delay. The appeal has been dismissed vide Annexure 6 dated 23.06.2014 on the ground that the petitioner could not satisfy the appellate authority with the inordinate delay of about nine years.

However, the main issue which has been raised by the petitioner is that even if there was complaint that certain persons, by suppressing information, have been able to obtain arms licence and, in such case, if the petitioner was required to deposit the firearm for inquiry, personal notice under section 17(1) of the Arms Act, 1959(hereinafter to be referred to as “the Act”) could have been issued to him. What has been done is that a notice was published in the newspaper that all the licence holders should file affidavits as to whether they are involved in any criminal case or not, otherwise their licence would be cancelled which was not in

compliance of the statutory provisions.



In my considered view, there is no provision under the Arms Act for proceeding in such a manner. Even if the petitioner has not filed any affidavit then, before passing any adverse order, a notice to show-cause as to why his licence should not be cancelled, was required to be issued and notice should have been required to be given to produce the licence under section 17(1) of the Act specially when this is not a case that the petitioner was actually involved in any criminal case. In fact, in the facts and circumstances which have been mentioned above, the petitioner had already deposited his gun before the arms dealer as there is an endorsement of the Arms Magistrate concerned to that effect on his licence, a copy of which has been appended as Annexure 1, and a receipt showing deposit of arms with M/s India Gun House has been appended as Annexure 2. That apart, the petitioner was depositing renewal fee till 2009 as per his claim. However, as per his claim, in compelling circumstances, as he had developed some serious ailment, he had to go for treatment outside the State and, as such, he was out of Patna and it was not within his knowledge that his licence has been cancelled.

Counter affidavit filed on behalf of the State does not show that the petitioner was involved in any criminal case but the

contents of the same show that the relevant records are missing from the record room of the licensing authority.

In my view, that makes the issue worse for the respondents as missing of record regarding arms licence is a serious matter which should be inquired into by the competent authority and the responsibility should be fixed.

In above view of the matter, in my considered opinion, the impugned orders cannot be sustained in law and, accordingly, both are quashed and set aside. Let the licensing authority re-examine the matter. If the petitioner is not even involved in any criminal case then he may be entitled for holding arms licence, whereas, if he is found to be involved in any criminal case then the order in accordance with law would be required to be passed by the licensing authority after granting him reasonable opportunity. The petitioner would also be required to file necessary affidavit as to whether he is involved in any criminal case or not.

Let the entire exercise be completed by the licensing authority within a period of four months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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