

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16144 of 2012

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Ajay Kumar Dwivedi @ Ajay Kumar Dubey, Son of Late Ram Awadh Dwivedi,
Resident of Village - Dubouti, Police Station - Belaon, District - Kaimur at
Bhabhua

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division Patna, Bihar
3. The Collector-Cum-District Magistrate, Kaimur at Bhabhua
4. The Superintendent of Police, Kaimur at Bhabhua

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Narendra Kumar, Advocate
Mr. Tej Narayan Singh, Advocate
For the Respondent/s : Mr. Sunil Kumar, AC to AAG-6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 09-11-2015

Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated 18.06.2002 passed in Arms Case No.54/1995-96 by the District Magistrate-cum-Licensing Authority, Kaimur at Bhabua (Annexure-1) by which he has rejected the petitioner's request for restoration of his arms licence. He also challenges Annexure-3 which is an order dated 23.07.2011 passed by the Divisional Commissioner, Patna in Arms Appeal No.09/2003 by which he has upheld the decision of licensing authority and has dismissed the appeal.

It is contended on behalf of the petitioner that his arms licence was cancelled on the ground of criminal cases pending against



him then he had approached this Court by filing CWJC No.9527/2001 which was disposed of on 8.08.2001 vide Annexure-2 holding that, since the petitioner is accused in two criminal cases, there was no legal infirmity in the impugned order, however, the authority concerned was directed to consider the question for grant of licence afresh in favour of petitioner in case the allegation against him under the Arms Act is not found correct. That had led the petitioner to approach the licensing authority once again, upon which, the order impugned as contained in Annexure-1 has been passed.

It appears from perusal of the Annexure-1 that order has been passed under the impression that the conviction of the petitioner under the Arms Act has been upheld by the appellate court as well as the revisional court, i.e., the High Court, however, the copies of the orders have been brought on record by the petitioner by filing supplementary affidavit demonstrate in clear terms that the appellate court has actually set aside the conviction of the petitioner under Sections 148, 324 of the Indian Penal Code and Section 27 of the Arms Act but conviction under Section 147, 323 and 448 of the Indian Penal Code was maintained and the petitioner was directed to undergo imprisonment for six months for the offence under such provisions. However, that was put to challenge in Cr. Revision No.666/99 which was disposed of vide order dated 4.11.1999 upholding the conviction

of the petitioner, however, the sentence awarded to him was reduced to the period already undergone under custody and he was directed to pay a fine of Rs.500/-, failing which, to undergo rigorous imprisonment for three months.

That having been the situation and the clear direction vide Annexure-2 to reconsider the question for grant of arms licence to the petitioner in case conviction under the Arms Act is not found correct, the order impugned, having been passed under gross-misconception that the conviction under the Arms Act has been upheld by the appellate and the revisional court, in my opinion, cannot be sustained. Though it is also stated in the impugned order that the concerned order was passed in Cr. Revision on 4.11.1999 but the same does not appear to have been brought to the notice of this Court while considering the matter in CWJC No.9527/2001, in my view, if this Court was of the view that if the allegation against the petitioner under the Arms Act is not found correct then the authority would be required to take a fresh decision regarding grant of arms licence then actually no purpose would have served in hiding such vital information from this Court. Therefore, non-disclosure does not appear to be purposive.

Accordingly, the orders impugned as contained in Annexures- 1 & 3 are quashed and set aside and the licensing

authority is directed to take a fresh decision regarding grant of fresh arms licence to the petitioner in accordance with law and as per the direction of this Court as contained in Annexure-2 within a period of three months from the date of receipt/production of a copy of this order.

This writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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