

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18097 of 2011

Bindhay Basini Prasad @ Bindhabashani Prasad S/O Late Dearika Prasad Resident of Ganj No. 2, P.O.- Bettiah, P.S.- Bettiah (T), District- West Champaran.

.... Petitioner

Versus

1. The State Of Bihar through the Collector-cum-District Magistrate, West Champaran, Bettiah.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Collector-cum-District Magistrate, West Champaran, Bettiah

.... Respondents

Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate

For the State : Mr. Krishna Chandra, A.C. to A.G.

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-08-2015

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

Petitioner seeks quashing of the order of the District Magistrate contained in Annexure-3 by which his Licence Nos.1/1990 for single barrel gun, 367/79 for N.P. Bore Rifle and 182/79 for N.P. Bore Pistol have been cancelled. Petitioner also challenges the appellate orders contained in Annexure-5 series by which the appeals against the aforesaid order have also been dismissed on the ground that the petitioner has already been convicted under Section 384 of the Indian Penal Code and as such he has become unfit for holding such arms licences. It appears that the petitioner had approached this Court by filing C.W.J.C. No.6254 of 1999 but the said case was dismissed

for want of prosecution on 31.07.2003.

It is submitted by the petitioner that, thereafter, he did not file any restoration application in view of his conviction under Section 184 of the Indian Penal Code and also for the reasons that Cr. Appeal (SJ) No.182 of 1997 was also pending against the judgment of conviction and order of sentence. However, the petitioner has been acquitted from the criminal charges by a judgment dated 26th July, 2011 passed by a Single Bench of this Court holding that prosecution has not been able to establish the prosecution case. Therefore, the judgment of conviction and order of sentence has been set aside and appeal has been allowed. Thereafter, the petitioner has filed this writ application.

However, it appears that the petitioner has approached this Court without approaching the authorities afresh in view of the subsequent development.

Accordingly, this writ application is being disposed of with a liberty to the petitioner to approach the Collector, West Champaran for passing a fresh order in view of the subsequent development as the petitioner has been acquitted from the criminal charges by a Single Bench of this Court. On such application having been filed, let the Collector, West Champaran take a decision, on its own merit and in accordance with law, keeping in view the judgment

of a Single Bench of this Court passed in Cr. Appeal (SJ) No.182 of 1997. The order of the appellate authority, in my opinion, is not required to be set aside as the same was passed in view of the conviction of the petitioner in the case noticing that the Cr. Appeal for setting aside the conviction and sentence was already pending before this Court. Therefore, the Collector would pass order without being prejudiced by the decisions taken in the appeals which were obviously passed in the facts and circumstances prevalent at that stage, within a period of two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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