

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3628 of 2014

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Govind Singh Yadav @ Ram Govind Singh Son Of Sri Ram Jahan Singh Resident
Of Village Londa P.S. Adhaura District Kaimur At Bhabhua

.... Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home Govt.
Of Bihar, Patna
2. The Commissioner, Patna Division, Patna
3. The District Magistrate Cum Collector, Kaimur At Bhabhua
4. The Superintendent Of Police, Kaimur At Bhabhua
5. The Officer-In-Charge Adhaura Police Station Adhaura District Kaimur,
Bhabhua

.... Respondents

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Appearance :

For the Petitioner : Mr. RAGHUNANDAN KUMAR SINGH, Advocate
For the State : Mr. YOGENDRA PD. SINHA, AAG 15
Mr. R.S. Singh, AC to AAG 15

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 15-12-2015

Heard learned counsel for the petitioner and the State.

Through this writ application, the petitioner seeks quashing
of the order dated 21.10.2011 passed in Arms Case No. 24 of 2009-
10 as contained in Annexure 7 by the District Magistrate-cum-
Licensing Authority,, Kaimur at Bhabhua refusing to restore the
licence no. 25/87 of the petitioner as well as the appellate order
dated 11.07.2013/23.08.2013 passed in Arms Appeal No. 604/2012
by the respondent no. 2, i.e., the Commissioner, Patna Division,
Patna, as contained in Annexure 8, by which he has affirmed the
order passed by the licensing authority and dismissed the appeal.



Admittedly, the petitioner's arm licence no. 25/87 granted for DBBL gun was cancelled by the licensing authority on the ground of his involvement in Adhaura Police Station Case No. 13 of 1992 registered under section 302/34 of the Indian Penal Code and section 27 of the Arms Act. The matter had travelled up to this Court as the petitioner had approached earlier by filing Cr.W.J.C. No. 103 of 1995 for quashing of the order dated 07.03.1994 passed by the licensing authority as well as the order passed by the appellate authority affirming the same and this Court vide order dated 20.02.1995 as contained in Annexure 5 disposed of the writ petition holding that no case has been made out by the petitioners of that case for interference by this Court, however, it was observed that in case the criminal cases, in which the petitioners were facing prosecution, end in acquittal then it would be open to them to move before the licensing authority who will consider the application for grant of licence in accordance with law.

The petitioner claims to have been acquitted of the charges in the aforesaid criminal case and in support of that he has appended a copy of the judgment rendered in Sessions Trial No. 698 of 1994/147 of 2004 as contained in Annexure 6. Thereafter, the petitioner approached the licensing authority for restoration of his licence and release of his gun which is kept at Adhaura Police



Station. However, vide order dated 21.10.2011 Annexure 7, Miscellaneous Case No. 24 of 2009-10 instituted on such application filed by the petitioner has been rejected by the licensing authority taking a view that the allegation upon the petitioner was serious in nature and it would not be proper to grant him licence since his behaviour is not up to mark and so he may use his arm in illegal manner and commit breach of peace and tranquillity at any moment if licence is restored.

However, to the utter surprise, after holding that the petitioner is not fit for grant of arm licence, the licensing authority at the end of the impugned order, after rejecting his case for grant of licence, has observed that if the petitioner is so advised, he may approach the licensing authority for grant of fresh arm licence in accordance with law.

It appears that the licensing authority has been swayed away by the fact that the allegation against the petitioner in Adhaura Police Station Case No. 13 of 1992, as stated above, was very serious as the aforesaid case was instituted with the allegation of killing of one person, therefore, his behaviour was not up to the mark and the licensing authority has stated in the impugned order that if the licence of the petitioner is restored he may use his firearm in illegal manner.



It is true that a Full Bench of this Court in **Kaildeo Singh v. State of Bihar and others**(AIR 1987 Patna 122) has observed that acquittal in a criminal case does not inflexibly warrant restoration of firearm licence as the licensing authority has to apply its mind and it is upto his subjective satisfaction as whether firearm licence should continue with the concerned person or not, however, only if other materials or factors are there against the petitioner.

This Court in a decision rendered in **C.W.J.C. No. 6661 of 2013(Lalan Singh v. The State of Bihar and others)** has already held that the judgment passed by the competent court has to be respected by all the authorities unless it is modified, altered or set aside by the superior court. Thus, rejection of licence can be made only if a factor other than the said case in which the judgment of acquittal has been passed, is also available for consideration by the licensing authority.

In the case in hand, it appears that the licensing authority has taken such view on the ground that there is serious allegation of firing killing one person but after the judgment of acquittal having been passed in the concerned case, it would be of no value.

Be that as it may, since, in my view, since the direction of this Court, vide Annexure 5, was that the petitioner after his acquittal in the case would be at liberty to approach the licensing

authority afresh for grant of licence but in place of doing that, he has filed a case for restoration of the licence coupled with the fact that the licensing authority has further granted liberty to him to file an application before the licensing authority for grant of fresh licence, the order impugned is not required to be quashed and set aside. However, the petitioner, if so advised, would be at liberty to file a fresh application. In case such fresh application is filed then the licensing authority would be required to decide the same on its own merit and in accordance with law taking into consideration the decision of the Full Bench rendered in **Kapildeo Singh(supra)** as well as the decision rendered in **Lalan Singh(supra)** and without being prejudiced by the view taken by him in the impugned order contained in Annexure 7 and the appellate order contained in Annexure 8.

It is expected that the entire exercise would be completed and final decision would be taken within a period of four months from the date of filing of the same.

With the aforesaid observation/finding, this application stands disposed of.

(Dr. Ravi Ranjan, J)

SC/-

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