

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15073 of 2013

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Nageshwar Singh S/O Late Thakur Dayal Singh Resident Of Village- Saidabad,
P.S- Sheosagar, District- Rohtas.

.... Petitioner

Versus

1. The State Of Bihar
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Rohtas, Sasaram.
4. The Deputy Collector, Law, Rohtas, Sasaram.
5. The Superintendent Of Police, Rohtas (Dehri)
6. The District Arms Magistrate, Sasaram.
7. The Police Incharge, Sasaram (Agrer), Police Station- Rohtas.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binod Kumar Singh,
Mr. Devi Das Srivastava
Ms. Vagisha Pragya Vacaknavi, Advocates

For the State : Mr. Raju Giri, G.P.30,
Mr. Nikhil Kr. Agarwal, A.C. to G.P. 30
Mr. Santosh Kumar Mishra, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-12-2015

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 29.11.2008
passed by the District Magistrate-cum-Licensing Authority, Rohtas in
Arms Case No.49/2001 by which his licence no.3/1999 granted for
DBBL gun has been cancelled under Section 17(3) of the Arms Act,
1959. The order dated 28.02.2013/10.05.2013 passed by the
Commissioner, Patna Division, being the appellate authority in Arms
Appeal Case No.35/2009, is also sought to be challenged as by that

order the order of the licensing authority has been upheld and the appeal has been dismissed.

It is contended on behalf of the petitioner that he has been made an accused in Sasaram (Agrer) P.S. Case No.720/2000 registered under Sections 147/198/307/34 of the I.P.C. and Section 27 of the Arms Act. However, there is no allegation against the petitioner regarding making any assault from firearm by resorting to firing. Such allegation is specific against one Antu Singh. However, at the same time, it is also admitted position that cognizance has been taken in the aforesaid offence and charges have been framed against the petitioner. Mr. Binod Kumar Singh, learned counsel, appearing for the petitioner has submitted that mere involvement in a criminal case would not form a ground for cancellation of licence. In support of his submission, he places reliance upon a decision of a Full Bench of this Court rendered in **Kapildeo Singh Vs. the State of Bihar and others [AIR 1987 Patna 122]** specially paragraph no.11 thereof. It is contended that the Full Bench has laid down in clear terms that unless there is a direct involvement regarding employment of the licensed weapon in the alleged crime, the licensing authority should not resort to taking decision regarding cancellation of the licence.

However, I do not find force in the submission raised on behalf of the petitioner. Of course, the Full Bench in the aforesaid



case has held that even during the pendency of criminal case may be relevant factor for consideration of the suspension or revocation of licence. However, it has cautioned that such criminal case may range from paltry traffic to the most horrendous capital crime. Therefore, it is not necessary that each and every pendency of criminal cases should be taken into consideration by the licensing authority. Thereafter, the Full Bench has also stated that use or employment of the licensed weapon in the alleged crime may well be relevant and added factor for consideration of exercise of the discretion by the licensing authority. In my view, it does not specify that unless there is an allegation of firing from the licensed weapon upon the licensee, the licence cannot be suspended or revoked by the licensing authority even though cases pending against him are of serious nature and he is satisfied that firearm in hand of such person would not be good for public peace and tranquility. The Full Bench has observed that it may be a relevant and added factor for exercise of discretion in the matter but it has finally come to the conclusion that there is no inflexible rule in applying the aforesaid. In the present case, admittedly charges have been framed against the petitioner, apart from other Sections, under Section 307 of the I.P.C and Section 27 of the Arms Act also. It appears from the perusal of the order passed by the licensing authority that the petitioner, after being involved in the case

of serious nature, had tried to suppress the fact during investigation that he was having a licensed firearm. It has been specifically stated that during the enquiry he has suppressed the aforesaid fact and, therefore, the Collector has found that the petitioner is not fit to hold licence. The Full Bench has observed in clear terms that ultimately it is the subjective satisfaction of the licensing authority for adjudging as to which person should be allowed to continue with the firearm or not.

That having been the situation, in my view, the order impugned passed by the Licensing Authority cannot be faulted with.

Accordingly, this writ application is dismissed.

(Dr. Ravi Ranjan, J)

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