

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18712 of 2013

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Ram Lal Prasad S/O Late Indrashan Mahto Resident Of Village Pujha Patjirwa,
Police Station- Srinagar, Pujha, District- West Champaran.

.... Petitioner

Versus

1. The State Of Bihar, Through Chief Secretary, Government Of Bihar, Patna.
2. The Divisional Commissioner, Muzaffarpur
3. The District Magistrate, West Champaran, Bettiah
4. The Sub Divisional Magistrate, Bettiah
5. The Superintendent Of Police, West Champaran, Bettiah
6. The Sub Divisional Police Officer, Sadar, Bettiah
7. The Office In- Charge (H.O.S), Sringar (Pujha), Bettiah.

.... Respondents

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Appearance :

For the Petitioner : Mr. Srinandan Singh,
Mr. Sanjay kumar no.-7, Advocates
For the State : Mr. Gyan Prakash Ojha, G.P. 22

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 06-10-2015

Heard learned counsel for the petitioner and the State.

Petitioner challenges the order dated 16.04.2010 passed by the District Magistrate-cum-Licensing Authority, West Champaran, Bettiah by which his licence granted for N.P. Bore rifle/revolver/DBBL gun has been cancelled on the ground of his involvement in about 11 police cases out of which some are also registered under Section 27 of the Arms Act, 1959. That apart, he also challenges the appellate order dated 13.10.2012 by which the appeal has been dismissed and the order passed by the Licensing Authority has been upheld.



Learned counsel submits that appellate order has been passed without granting any reasonable opportunity to the petitioner and, as such, the same is liable to be set aside. He further contends that it would be apparent from Annexure 2, which is a report of the District Magistrate, West Champaran addressed to Home Department of the State, that he had helped the police in its operation against criminals and his father has been killed by the extremists.

Counter affidavit has been filed on behalf of the State. However, it does not appear from the order-sheet appended as Annexure 1 that the petitioner was not heard by the appellate authority as it has been clearly indicated in the order dated 11.10.2010 that the petitioner was present and he has been heard and the matter was reserved for passing order. The impugned order is a detailed one and every aspect has been covered. The petitioner cannot be allowed to raise such ground at the time of hearing as there is no statement on affidavit in the writ application that the petitioner was not present on the date of hearing and there is error of record committed by the appellate authority while recording the order that the petitioner has been heard. A question of law appears to have been framed as to whether the impugned order is not against the principle of natural justice as the same has been passed without giving opportunity of hearing but, as stated above, without any statement in support

thereof regarding error of record having been committed by the appellate authority.

Admittedly, the petitioner is involved in a number of criminal cases in which he is facing trial. One of such cases is Srinagar P.S. Case No.106/2012 registered under Sections 148, 149, 307, 302 and Section 27 of the Arms Act which has been registered on 31.08.2012, i.e., after the report contained in Annexure 2 of the District Magistrate in which there is allegation against him that he has fired from his licensed revolver hitting right thigh of one Upendra Yadav. Admittedly, the charge-sheet has been framed and trial is going on in the matter.

In my view, since such serious nature of cases are pending against the petitioner and, as such, the licensing authority being also of the opinion that such person should not be given firearm licence and even before this Court also nothing could be pointed out by the petitioner warranting interference of this Court, this writ petition has to fail. A Full Bench of this Court in **Kapildeo Singh Vs. the State of Bihar and others [1987 BBCJ 274]** has held that even during the pendency of a criminal case, the Licensing Authority would be competent to take action either by suspending, modifying or revoking the licence concerned. The Full Bench decision of the High Court of Allahabad rendered in **Rana Pratap Singh Vs. State of Uttar**

Pradesh [1996 CRI.L.J. 665] relied by the petitioner would not come to his rescue as it is on the issues as to whether prior hearing of licensee would be required in a proceeding for cancellation of arms licence if the licensing authority is of the opinion that possession of arms is going to endanger public peace and safety.

Accordingly, this writ application is dismissed.

However, in case of acquittal of the petitioner in the concerned cases, he would be at liberty to make a fresh attempt for grant of fresh licence which should be considered by the licensing authority on its own merit and in accordance with law if such situation arises.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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