

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7415 of 2015

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Bray Nandan Prasad Yadav. Son of Late Pyare Prasad Yadav. Resident of village -
Prabhu Bigha, P.S.- Sheikhpura, Dist.- Sheikhpura.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Home, Patna Bihar.
2. The District Magistrate Sheikhpura, Bihar.
3. Superintendent of Police, Sheikhpura, Bihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Premchandra Yadav, Advocate
For the State : Mr. Manish Kumar, G.P.8,
Mr. Prashant Kumar, A.C. to G.P. 8

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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.

Petitioner seeks quashing of the Annexure 1 which is
an order dated 29.01.2015 passed by the District Magistrate,
Sheikhpura by which arms licence granted to the petitioner has been
cancelled.

A counter affidavit has also been filed on behalf of the
respondents taking a view that petitioner did not deposit the firearms
for verification after direction of the Licensing Authority and the
Superintendent of Police had recommended for cancellation of the
licence belonging to several persons including the petitioner vide
Annexure A dated 06.04.2014 appended with the counter affidavit.



The Licensing Authority has suspended the licence of about 37 persons including the petitioner and directed the licensee to explain within fortnight as to why licence should not be cancelled. Petitioner submits that at the time of allegation, he was posted at Jharkhand and was engaged in the election duty being a C.R.P.F. personnel and the aforesaid order of suspension and also the show cause notice were never served upon him.

Vide order dated 01.12.2015, after noticing that no statement has been made in the counter affidavit regarding service of notice upon the petitioner before passing of order of cancellation of his licence though a stand has been taken that there was an attempt to serve the notice upon the petitioner but he was not available in his house, this Court had directed the Officer-in-Charge, Sheikhpura to produce the concerned record containing the evidence regarding attempted service of notice upon the petitioner. The Officer-in-Charge is present with one loose sheet in which the Chokidwar appears to have reported to the Officer-in-Charge, Kushumbha outpost that the petitioner was not available in the house and none in the family were ready to accept the notice but the same being only loose sheet of paper does not appear to be reliable evidence also in view of the fact that it is not stated anywhere in the letter that the Chokidwar had contacted with which family member of the petitioner as no name or relation

etc. has been stated in the aforesaid letter. A bald statement has been made that the family members of the petitioner were not ready to receive the notice. It appears from Annexure A that Officer-in-Charge was directed to get the notice served and submit a report to the Licensing Authority but nothing has been produced to show that Officer-in-Charge has submitted a chit of paper regarding service of notice to the Licensing Authority before passing of the order of cancellation.

In above view of the matter, in my view, the order impugned cannot be sustained and is quashed and set aside. However, the matter is remitted back to the Licensing Authority to take a fresh decision in accordance with law after granting reasonable opportunity to the petitioner. It is expected that the entire exercise would be completed within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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