

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11739 of 2016

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Mahesh Sharma, aged about 69 years, Son of late Narsingh Singh, Resident of Village- Lodipur, P.S.- Hulasganj (Ghoshi), District- Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Jehanabad.
5. The Superintendent of Police, Jehanabad.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Arun Kumar, Mr. Bipin Kumar, Advocates
For the State	:	Mr. Kumar Alok- SC 7, Mr. Satyeshwar Prasad, A.C. to S.C. 7

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-11-2016

Heard parties.

Petitioner is aggrieved by the order dated 02.02.2016 as contained in Annexure 1 by which his licence has been cancelled. This is the third round of litigation. First round of litigation ended with the order passed in L.P.A. No.415 of 2000 dated 13.05.2008 holding as follows:-

“The licensing authority was therefore not justified in cancelling petitioner’s arms license and for the present, till the conclusion of concerned criminal case, petitioner’s license should be treated only to have been suspended by effect of the impugned order so that



the petitioner may apply for revocation of the suspension order of if he acquitted in the criminal case lodged against him”.

It is apparent from the aforesaid order that after acquittal in the concerned criminal cases, petitioner was given liberty to file an application for revocation of suspension. However, vide order dated 26.11.2013 (Annexure 8), his licence was cancelled and was directed to deposit the firearm. Thereafter, the petitioner was granted liberty vide Annexure 9 by this Court to move before the Licensing Authority in view of the fact that he has been acquitted of the charges in criminal cases and the Licensing Authority was directed to take a fresh decision without being prejudiced by the earlier order of rejection.

Now the impugned order has been passed again cancelling the licence of the petitioner on the ground that he did not deposit the firearm for a long period. On earlier occasion, though for such act, criminal case being Ghoshi (Hulasganj) P.S. Case No.104 of 1998 was lodged against the petitioner apart from other provision of law, under Section 25(1)(b)(a) of the Arms Act, 1959 also, however, petitioner has been acquitted of such criminal charges also. In view of the acquittal of the charges, such ground was not at all available to the Licensing Authority, especially when he was directed vide Annexure



9 not to be prejudiced by the earlier order in which such ground was already taken for rejection of his licence. Such statutory authority does not have any power to scrutinize the order/judgment of acquittal and come to the conclusion that since acquittal is on a particular ground, it would be of no value. Of course, the Full Bench in **Kapildeo Singh vs. State of Bihar and Ors. [AIR 1987 Pat 122]** has held that acquittal may not have inflexible result but that is only if other grounds are also available to the licensing authority for taking a decision of cancellation or refusal of licence to a person. This issue has been considered at length by this Court in **Lalan Singh Vs. the State of Bihar & Ors. [2016(1) PLJR 198]** and it has been held that judgments pronounced by courts should not be analyzed and criticized in a statutory proceeding by the Licensing Authority after the same have attained its finality and if other grounds were not available for Licensing Authority for holding that the petitioner is unfit to hold licence, such ground cannot be taken for that purpose.

In my view, since the petitioner was acquitted of the criminal charges in both the criminal cases, one being for misuse of his firearm by not submitting it even after its cancellation/suspension, such ground for cancellation of licence was not at all available to the Licensing Authority specially after the direction contained in the order dated 21.09.2015 passed in C.W.J.C. No.2462 of 2014 (Annexure 9).



Therefore, in my view, the order impugned is not sustainable in the eye of law. Accordingly, the same is quashed and set aside. The matter is remitted back to the Licensing Authority to take a fresh decision in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

This writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.01.2017
Transmission Date	NA

