

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7335 of 2014

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Sarfraz Alam, son of Md. Tasalimuddin, Resident of village - Sisauna, P.S. Jokihat, District - Araria.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Purnea Division, Purnea.
3. The District Magistrate, Araria, District - Araria.
4. The Arms Magistrate, Araria, District - Araria.
5. The Superintendent of Police, Araria, District - Araria.
6. The Station Head Officer, Araria Police Station, District - Araria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam, Advocate

For the Respondent/s : Mr. Purnendu Singh, GP-27

Mr. Sanjay Kumar Tiwari, AC to GP-27

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-04-2016

I have heard parties and perused the records of the case.

The petitioner seeks quashing of the order dated 25.07.2009 passed by the District Magistrate, Araria (respondent no.3) as contained in Annexure-2 by which he has cancelled the three firearms licences of the petitioner. He also assails the order dated 19.09.2013 passed by the Divisional Commissioner, Purnea Division, Purnea (respondent no.2) passed in Arms Appeal No.10A of 2009 dismissing the appeal and upholding the order passed by the District Magistrate (Annexure-4).

Mr. S.B.K. Manglam, learned counsel appearing for the



petitioner has submitted that it would be evident from Annexure-1 that a show cause notice was issued with respect to involvement of the petitioner in Araria P.S. Case No.255 of 2003 registered for the offences punishable under Sections 147, 148, 149, 207, 504 of the Indian Penal Code and Section 27 of the Arms Act, whereas, it appears from the impugned order that about five police cases have been considered indicating petitioner's involvement therein though there was no show cause notice for four out of them. It is next contended that merely institution of a case does not mean that the petitioner is a convict in the case concerned and, thus, on the aforesaid ground only, the licence should not have been cancelled. It is lastly contended that the petitioner has been falsely implicated due to political rivalry.

Though it is a fact that the show cause notice vide Annexure-1 was issued only indicating the petitioner's involvement in one police case and, ultimately, the licensing authority, in view of the certain reports, has noticed that the petitioner is involved in five criminal cases altogether, however, it would not make difference because the writ petitioner has not come up with a case that he is not involved in the aforesaid police cases. It has also been noticed in the impugned order that the Superintendent of Police has also opined that in view of involvement of the petitioner in so many criminal cases, it



would not be appropriate to allow firearms in his hand. Considering all the aforesaid aspects, a decision has been taken by the licensing authority to cancel all the licences granted for firearms in favour of the petitioner. The appellate authority has also upheld the order of the licensing authority and has dismissed the appeal.

It is true that there is no statutory provision indicating that once the petitioner is involved in a criminal case, his licence is to be cancelled, however, this issue is no longer *res integra* inasmuch as the same has already been considered and decided by a Full Bench of this Court in ***Kapildeo Singh Vs. State of Bihar and Others (AIR 1987 Patna 122)***. Full Bench has opined that the pendency of a major or capital crime case may, in the opinion of the District Magistrate, render such person unfit for holding the licence, however, such discretion given by the statute cannot be put in a strait-jacket. Thus, the requirement would be to grant reasonable opportunity to the licensee to explain the things but again a caution has been made that a criminal case may range from a paltry traffic offence to the most horrendous capital crime and whilst the pendency of the former may hardly provide an adequate basis under Section 17 (3) of the Arms Act, in the case of the latter, after notice and granting reasonable opportunity to explain, such action may well become necessary.

The fact that in the show cause notice only one criminal

case was referred while in the impugned order, five cases have been considered, in my considered opinion, would not make much difference as it is not a case of writ petitioner that he has not been made accused in those cases. All the cases are indicating towards involvement of the petitioner in major crime including one under the Arms Act.

Thus, in my view, the decision taken by the licensing authority to revoke the licence under Section 17 (3) (b) of the Arms Act and that passed by the appellate authority cannot be faulted with and, as such, it is held that the impugned orders do not warrant any interference by this Court.

As a result, this writ application fails and is, accordingly, dismissed.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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