

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22458 of 2014

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Jag Narayan Singh Son of Suchit Singh, Resident of Village-Ahiyapur, Police Station-Rajpur, District-Buxar.

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Department of Home, Govt. of Bihar, Patna.
3. The District Magistrate, Buxar, District-Buxar.
4. The Superintendent of Police Buxar, District-Buxar.
5. The Station House Officer, Rajpur Police Station, District-Buxar.

.... Respondents

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Appearance:

For the Petitioner : Mr. Promod Kumar Singh, Advocate.
For the State : Mr. Rajeev Shekhar, AC to GP-24.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-05-2016

Heard parties.

Through this writ application, the petitioner seeks quashing of the order, as contained in Annexure-5 by which his licence granted for DBBL gun has been suspended. He also seeks quashing of Annexure-6/1 dated 25.10.2010 by which show cause notice has been issued upon the petitioner asking him why his licence should not be cancelled.

It is contended that the petitioner having received to the aforesaid notice contained in Annexure-6/1, filed show cause after depositing his gun with Buxar Gun House Arms and Ammunitions Dealer which was entered in its register at serial no. 394. The



receiving of that has been given by the gun house, which has been appended as Annexure-8. Though a reply to the show cause notice was filed by the petitioner vide Annexure-9, no final decision has been taken regarding the cancellation. However, in the meantime, petitioner, who was convicted by the trial Court, has honourably been acquitted by a Division Bench of this Court, as contained in Annexure-11.

Thus, it is contended on behalf of the petitioner that the decision of cancellation has not been taken as yet, and in view of the acquittal of the petitioner by the Division Bench of this Court, it should be declared that the suspension of petitioner's licence stands automatically revoked in terms of Section 17(7) of the Arms Act, 1959.

The aforesaid submission made on behalf of the petitioner is noted only to be rejected, inasmuch as section 17(7) of the Arms Act, 1959 reads in clean terms that ***“A Court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence. Further if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void”.***

However in the case in hand, the Court convicting the petitioner did not pass any order regarding suspension or



cancellation of licence rather the licensing authority on the basis of pendency of a criminal case of serious nature had suspended the licence of the petitioner and had given further notice as to why the same should not be cancelled. Thus, in my view, the order of suspension would not be void in view of the aforesaid provision of law. However, at the same time, it is evident that the petitioner has already been acquitted of the criminal charges by a Division Bench of this Court and, in case of order of cancellation has not been passed, the licensing authority would have to consider revocation of suspension of licence in view of the subsequent development as aforesaid.

Accordingly, the Court would grant liberty to the petitioner to approach the licensing authority by filing a petition for revocation of suspension of licence along with a copy of the judgment of acquittal as well as a copy of the this order. After such application is filed, the licensing authority would be required to take a decision in accordance with law. While taking such decision, it would be obliged to consider the ratio laid down in **Lalan Singh vs. the State of Bihar [2016 (1) PLJR 198]** as well as a decision of the Full Bench of this court rendered in **Kapildeo Singh Vs. the State of Bihar & others [AIR 1987 Patna]**. It is expected that the whole exercise will be completed within a period of four months

from the date of filing of such application. Since no order of cancellation has been passed by the licensing authority, it will be open to proceed with the matter of cancellation only after taking a decision as per the direction of this Court with regard to revocation of suspension of licence, meaning thereby, if he is satisfied that suspension of licence should be revoked, then there would be no reason for proceeding for cancellation of licence. However, if the suspension of licence would not be fit to be revoked, then, after passing such order he may proceed to the issue of cancellation of licence, in accordance with law.

Accordingly, this writ application is disposed of.

(Dr. Ravi Ranjan, J.)

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