

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.453 of 2005

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Suresh Prasad, son of Late Chandrachur Prasad Sah, resident of Naya Bazar, P.S.-
Lakhisarai, District-Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Munger Division, Munger.
3. The Collector, Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Advocate
Mr. Rabi Bhushan, Advocate

For the Respondent/s : Mr. Rewari Kant Raman, AC to GP-31

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 25-04-2016

Heard parties.

The petitioner seeks quashing Annexure-2 which is an order dated 12.12.2000 passed by the District Magistrate-cum-Licensing Authority, Lakhisarai in Legal (Arms) Case No.4/2000 by which his firearm licence no.20 of 1999 was cancelled under Section 17 (3) of the Arms Act, 1959. The petitioner also assails the appellate order dated 15.10.2004 passed by the Divisional Commissioner, Munger in Arms Appeal Case No.05/2000-01 (Annexure-1) dismissing the appeal and upholding the order passed by the licensing authority.

It is submitted on behalf of the petitioner that his licence has been cancelled mainly on two grounds. First is that a criminal case



being Lakhisarai P.S. Case No.250/1990 registered under Sections 148, 149, 307 of the Indian Penal Code and Section 27 of the Arms Act was pending. Kavaia Sanha No.172 dated 12.09.1999 and Kavaia Sanha No.222 dated 15.09.1999 were registered. It is alleged that during the election period, the petitioner was exhibiting his firearm to influence the voter in favour of a particular candidate. It is contended on behalf of the petitioner that so far as the police case is concerned, a judgment of acquittal has already been passed in favour of the petitioner finding it a case of no evidence, a copy of which has been appended as Annexure-5, however, it happened during the pendency of his appeal but it does not appear from the appellate order that this issue was raised by the petitioner before the appellate authority.

Be that as it may, at the time of passing of impugned order, such order of acquittal was not available as the same has admittedly been passed after passing of the impugned order as contained in Annexure-2 and during the pendency of appeal. Thus, in my view, there were sufficient materials at that point of time available before the licensing authority for taking such decision which cannot be faulted with. Though it is submitted on behalf of the petitioner that ultimately charges were framed under Sections 148, 149 and 307 of the Indian Penal Code and not under the Arms Act but even then

framing of charge under Section 307 of the Indian Penal Code also indicated towards his involvement in serious nature of crime at that point of time.

Admittedly, the petitioner has been acquitted of the charges and much time has elapsed since passing of the impugned orders as contained in Annexure-2 as well as Annexure-1 and as I have already held that the order impugned cannot be faulted with for the reason that at that point of time the petitioner was involved in such case of serious nature, however, in view of the acquittal of the petitioner from criminal charges, this writ application is being disposed of with a liberty to the petitioner to make a fresh application for grant of arms licence. If such application is filed on behalf of the petitioner, let the licensing authority consider it in accordance with law without being prejudiced by the earlier orders of cancellation and also considering the subsequent event of acquittal of the petitioner from the criminal charges. While doing so, he would be obliged to consider the decision of this Court rendered in ***Lalan Singh Vs. The State of Bihar and Ors. [2016 (1) PLJR 198]*** and also Annexure-6 which was a letter sent by the Superintendent of Police, Lakhisarai to the District Magistrate stating that there is no further complaint against the petitioner. The licensing authority would be at liberty to seek a fresh report from the police authorities also regarding the

petitioner.

It is expected that such decision would be taken within a period of three months from filing of such application for grant of fresh licence along with a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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