

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15790 of 2015

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1. Uma Shankar Singh Yadav @ Uma Singh @ Uma Shankar Singh, son of Ramji Singh Yadav,
 2. Sheo Kumar Singh Yadav @ Sheo Kumar Singh, son of Ramdas Singh Yadav, Both residents of village- Barwankala, P.S.- Adhowara, District- Kaimur (Bhabhua)

.... Petitioners

Versus

1. The State of Bihar
2. The Collector-cum-District Magistrate, Kaimur (Bhabhua)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate
Mr. Ram Nath Singh, Advocate

For the Respondent/s : Mr. Avanindra Kumar Jha, AC to AAG-13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 04-01-2016

Heard learned counsel for the petitioners and the State.

The petitioners are aggrieved by the order dated 22.07.2004 as contained in Annexure-5 by which application filed by the petitioners in view of the liberty granted by a Single Judge Bench of this Court vide order dated 1.04.1998 as contained in Annexure-2 was rejected on the ground that they were not able to produce the certified copies of the judgment dated 4.06.2003 passed in Sessions Trial No.128 of 1995/194 of 2001 as well as aforesaid order of this Court. The petitioners then again filed a petition for restoring the case after filing certified copy of the judgment concerned, however, the same has been rejected vide order dated 7.09.2006 as contained in

Annexure-7 stating that the petitioners could not show any statutory provision that once the order has been passed rejecting the prayer of the petitioners then again it can be restored.

A counter affidavit has been filed on behalf of the respondents.

It is contended on behalf of the petitioners that the impugned order as contained in Annexure-5 ought not to have been passed by the licensing authority taking a hyper-technical view rather a direction should have been given to the petitioners to file certified copy of the orders concerned. The petitioners, thereafter, filed certified copy and submitted their application for restoring the earlier case, however, the same has been rejected on the ground that once a decision has been taken that cannot be reviewed or restored by the authority concerned.

In my view, by passing the Annexure-5, the licensing authority has taken a hyper-technical view of the matter as it is a fact that, when the petitioners' licence was cancelled, they had approached this Court by filing CWJC No.10757/1996 which was disposed of on 1.04.1998 vide Annexure-2 rejecting their prayer for quashing of the order of the licensing authority, however, granting liberty to make prayer for restoration of arms licence after disposal of the criminal case. Thereafter, the petitioners, after their acquittal in the case, again

approached this Court by filing CWJC No.10534/2003, however, the same was permitted to be withdrawn by them with a liberty to move before the licensing authority for restoration of their licence in view of acquittal in the case and also in view of the earlier direction of this Court vide Annexure-2.

In such a situation, when in both the cases, the State and the licensing authority were party, in my view, the aforesaid hyper-technical view should not have been taken by the licensing authority for rejection of their application on the ground that the petitioners failed to supply the certified copy of the judgment of acquittal as well as the order of the High Court. An opportunity could well have been given to them to produce the aforesaid documents within specified time. In case, the petitioners would have failed to comply such direction then such view may well have taken by the licensing authority. Thus, in my view, the order as contained in Annexure-5 cannot be sustained in law and, accordingly, the same is quashed and set aside. Once the Annexure-5 is set aside, the Annexure-7 also has to go and accordingly, the same is also quashed and set aside. The matter is remitted back to the licensing authority to consider the case of the petitioners for restoration of licence afresh in view of the liberty granted by a Single Judge Bench of this court vide Annexure-2 and also vide Annexure-4.

It is expected that the entire exercise would be completed within a period of eight weeks from the date of production of a copy of this order by the petitioners.

The petitioners would be required to supply the required certified copies of the order and the judgment, if already not filed, at the time of producing a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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