

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1149 of 2006

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Mahant Achyut Prappana Charya, disciple of late Mahant Raghav Prappannacharya, resident of Basavkala, Math, police station Sikraul, District-Buxar.

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Buxar
4. The Superintendent of Police, Buxar
5. Hanuman Ram, Officer-in-charge, Sikraul police station, District Buxar

.... Respondents

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Appearance :

For the Petitioner : Mr. K.N. Choubey, Sr. Advocate
: Mr. Ambuj Nayan Choubey, Advocate
: Mr. Ashok Kr. Garg, Advocate
: Mr. Dineshwar Pandey, Advocate
For the State : None

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-04-2016

Heard learned counsel for the petitioner while none appears on behalf of the State, however, a counter affidavit has been filed on behalf of respondent nos. 4 and 5.

Petitioner's licence for N.P. Bore rifle was cancelled vide order dated 01.08.2000 as contained in Annexure-3 by the District Magistrate, Buxar, who happens to be the Licensing Authority. The appeal preferred against the aforesaid order has also been dismissed on 09.11.2004 by the Commissioner, Patna Division as contained in Annexure-4.



Learned counsel submits that the licence of the petitioner was cancelled primarily on the ground that he has misused the licensed gun for which, Sikraul P.S. case no. 29/96 was registered and also on the ground that there was some apprehension of breach of peace as there was a dispute with regard to the distribution of lands under land ceiling proceeding. It is contended on behalf of the petitioner that during pendency of the appeal filed against the order of cancellation, the petitioner was acquitted of the criminal charges and the matter was brought to the notice of the appellate authority but appellate authority has held that acquittal on benefit of doubt would not entitle the petitioner to hold a licence for firearms.

However, in my view, the appellate authority overlooks certain facts which is borne out of the judgment of acquittal as well as the contention of the petitioner that petitioner himself was aggrieved by the conduct and behaviour of the officer-in-charge of the concerned Police Station. The petitioner has also made an allegation upon him and thus it is apparent from the judgment of acquittal itself that the same person being officer-in-charge had sent a report against the petitioner acting as investigating officer. Though, it has been stated in the judgment that benefit of doubt has been given to the petitioner but, at the same time, it has also been stated that allegations suffered from the vice of the improbability.

In such a situation, in my view, the order should not have passed in such a mechanical manner without considering the aforesaid aspects.

Accordingly, the writ petition is allowed and the order passed by the Commissioner, Patna Division is quashed and set aside. The matter is remitted back to the Commissioner, Patna Division for taking a fresh decision on its own merit and in accordance with law without being prejudiced by his earlier order within a period of three months from the date of receipt/ production of a copy of this order. While doing that, he would be obliged to consider the decision of this Court rendered in *Lalan Singh v. The State of Bihar through the Chief Secretary and ors.* 2016 (1) PLJR pg. 198.

(Dr. Ravi Ranjan, J.)

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