

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23438 of 2013

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Heera Lal Singh Son Of Late Chandraman Singh Resident Of Village Kusumla P.S.
Ayer Distt. Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Bhojpur, Ara
3. Arms Magistrate, Bhojpur, Ara

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhimanyu Sharma, Advocate
Mrs. Mira Kumari, Advocate

For the Respondent/s : Mr. Shakib Ayaz, AC to GA-9

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-06-2016

Heard parties.

The petitioner seeks quashing of the order dated 11.09.2009 passed by the District Magistrate-cum-Licensing Authority, Bhojpur at Ara, as contained in Annexure-4, by which his firearm licence has been cancelled. He also assails the order dated 22.01.2013/22.02.2013 passed in Arms Appeal No.107/2011 by the Divisional Commissioner, Patna, as contained in Annexure-7, by which his appeal has been dismissed and the order passed by the licensing authority has been upheld.

The sole ground taken on behalf of the petitioner is that even after suspension of licence vide Annexure-3, without service of any notice for cancellation of licence, Annexure-4 has been passed. A



stand has been taken by the State that the notice was sent to the petitioner. On such statement having been made, the original records were called for, which have been produced today for perusal. It does not appear from perusal of the records that a notice for cancellation of licence was ever sent or served upon the petitioner as the records only disclose that an order was passed for serving notice upon the petitioner and a copy of notice is also present but the concerned order discloses that notice was to go under registered cover but no postal receipt is on record. The second question arises in this case whether in the facts and circumstances of the case, when the licence was already suspended, an order of cancellation was required to be passed at all, if the petitioner had already deposited his firearm? A reference in this regard is made to a decision of the Division Bench of this Court rendered in ***Mahesh Sharma Vs. State of Bihar [2008 (3) PLJR 186]***.

Accordingly, this writ application stands allowed. The orders impugned as contained in Annexure 4 and 7 are quashed and set aside. The matter is remitted back to the licensing authority to consider the same afresh. While doing so, he would be obliged to consider the present order and also a decision of the Division Bench rendered in ***Mahesh Sharma (Supra)***.

The petitioner would appear before the licensing authority along with a copy of this order on 15.07.2016. On that day a copy of

Notice for cancellation of his licence which is available on record would be served upon him. Thereafter, the petitioner would be required to file his reply within a week which should be considered by the licensing authority and a final decision should be taken by him within a period of two months from the date of filing of such reply.

The petitioner claims that the firearm has been deposited in Jagdishpur Police Station. Let steps be taken so that the firearm of the petitioner is well maintained.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.06.2016
Transmission Date	N.A.