

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10018 of 2014

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Bray Nandan Singh, son of Late Gorelal Singh resident of village Kaithma, Police Station Sheikhpura, District Sheikhpura.

.... Petitioner

Versus

1. The State of Bihar.
2. Divisional Commissioner, Munger.
3. District Magistrate-cum-Licensing Authority, Sheikhpura.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate

For the Respondent/s : Mr. Manoj Kumar Jha, AC to GP-26

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 02-05-2016

Heard parties.

The petitioner seeks quashing of the order dated 13.09.2012 passed by the Collector, Sheikhpura in Arms Cases No.32/2011 and 33/2011, as contained in Annexure-8, by which the firearms licence of the petitioner for N.P. bore revolver and D.B.B.L. Gun have been cancelled.

It is contended on behalf of the petitioner that after the petitioner was made accused in Sheikhpura P.S. Case No.290/2001 registered under Sections 302, 120 B/34 of the Indian Penal Code and Section 27 of the Arms Act, though not named in the F.I.R. but on the ground that he was involved in conspiracy, his arms licences were cancelled vide Annexure 1 and 2. The appeals preferred by the



petitioner were dismissed for default. The petitioner, thereafter, approached this Court by filing CWJC No.8827/2003 which was allowed and the matter was remitted back to the appellate authority vide order dated 27.08.2003 (Annexure-4). Again, the petitioner's appeals were dismissed for default compelling the petitioner again approached this Court by filing CWJC No.6529/2005. However, this time, the writ petition was dismissed *in limine*. The petitioner preferred LPA No.222/09 which was disposed of remitting back the matter to the Divisional Commissioner to consider the appeal on merit also considering the decision of the Division Bench rendered in ***Mahesh Sharma Vs. State of Bihar and Ors. [2008 (3) PLJR 186]*** and directing the petitioner to appear on the date fixed vide order dated 20.03.2009. The petitioners' appeals were disposed of directing that in place of cancellation of licence, the same would remain suspended during the pendency of the criminal case. It was also observed that in case of acquittal of the petitioner, revocation of suspension of licence could be considered. After acquittal of the petitioner from the criminal charges vide Annexure-7, which is copy of the judgment dated 25.10.2010 passed in Sessions Case No.339/2002, the petitioner approached the licensing authority once again for revocation of suspension of his licences. However, this time, the licences were again cancelled on the ground that the petitioner has



violated the direction of the licensing authority on earlier occasion by not depositing the firearms within the time period prescribed. Thus, his licences are liable to be cancelled. It has also been stated in the order passed by the licensing authority that the petitioner has obtained the order in LPA No.222/09 by submitting wrong facts and, thus, the aforesaid decision is not applicable in the present case. Lastly, it has been observed that the licences would remain cancelled as it was. The appellate authority vide Annexure-10 dated 10.07.2013 has also upheld the views of the licensing authority.

In my view, the orders passed by the licensing authority and the appellate authority are not sustainable in law at all. Though earlier order of the Divisional Commissioner has not been brought on record but at the time of hearing, learned counsel for the petitioner has produced a copy of the order dated 7.10.2009 passed by the Divisional Commissioner, Munger which has been taken in record. It appears from the aforesaid order that after remand to the Divisional Commissioner vide Annexure-6 dated 20.03.2009, the appellate authority in clear terms had modified the order passed by the District Magistrate cancelling the licences of the petitioner stating that it would deem to have been suspended and, further, it has been observed that after acquittal from the criminal charges, the petitioner's application for revocation of suspension can be considered. Thus, it is



clear that there was no cancellation of licence of the petitioner rather the order was only to the extent that the petitioner's licences were suspended till the disposal of the criminal case. It appears that the licensing authority has erred in considering that, on earlier occasion also, the petitioner's licences were cancelled. Secondly, the issue as to whether the petitioner's licences could have been cancelled or not on the ground that he could not deposit the firearms within the time period prescribed by the licensing authority was open to be considered by the appellate authority on earlier occasion itself. That is not a subsequent development which could have been considered by the authorities. Now the licensing authority cannot take such stand for cancellation of licence especially when the petitioner's case is that on 7.01.2002, 10 days time was granted to him for depositing the firearms, however, in view of his alleged involvement in the criminal case, he was taken to custody on 16.01.2002. He came out after bail having been granted in the month of April, 2003 by a Bench of this Court and on 2.05.2003, thereafter, he immediately deposited the firearms.

It is further intriguing as to why the licence for grant of N.P. Bore rifle could have been cancelled on the ground that he could not deposit the arms within the time prescribed when the fact which has been accepted by this Court while passing the order as contained

in Annexure-4 is that he had never purchased the rifle.

Accordingly, in my view, the impugned order, not being sustainable in law, is quashed and set aside. The matter is remitted back to the licensing authority for considering afresh the issue of revocation of suspension of licences of the petitioner on the ground of his acquittal. 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]*.

It is expected that the whole exercise would be completed within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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