

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14181 of 2015

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Chandra Mauli Choudhary, Son of late Ram Pravesh Choudhary, resident of
Village- Belaur, P.S.- Udwant Nagar, District- Bhojpur at Ara.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Bhojpur at Ara.
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Bhojpur at Ara.
4. The Deputy Collector, Incharge, Legal Section, Bhojpur at Ara.
5. The Superintendent of Police, Bhojpur at Ara.
6. The Officer incharge, Udwant Nagar Police Station, Udwant Nagar.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Prabhu Narayan Sharma, Advocate
For the State : M/s U.S.S.SINGH, GA 1 and
Swapnil Kumar Singh, AC to GA 1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-03-2016

Heard parties.

Petitioner seeks quashing of the order dated 10.1.2014 /
20.5.2014 passed by the Divisional Commissioner, Patna in Arms
Appeal No. 79 of 2014 by which the appeal has been dismissed and
the order passed by the District Magistrate, Bhojpur in Case No. 46
of 1995 on 9.1.1998 has been affirmed by which the petitioner's arms
licence was cancelled.

It is contended on behalf of petitioner that in view of
his involvement in Udwantnagar P.S. Case No. 164/1994 the licence
of the petitioner was cancelled in the year 1998 itself. However,



subsequently on 5.3.2005 a judgment of acquittal was passed in favour of the petitioner acquitting him from the criminal charges holding that the prosecution has not been able to bring home the charges. The petitioner then approached this Court by filing C.W.J.C. No. 23531/2012 which was disposed of on 9.1.2014 noticing that the petitioner has not challenged the earlier order anywhere, thus, he was directed to file an application before Divisional Commissioner, who was directed to take into account the subsequent events and pass a reasoned order. Upon such direction Annexure 1 has been passed holding that, even if the petitioner has been acquitted of the charges, in view of the law laid down in **V.K.Thomas V. Revenue Board, Member [1988 Cri LJ 336 (Kerala)]** as well as **Chand V. Commissioner, [AIR 1958 Cal 420]** and also **Rambir Singh V. Lt. Governor (NCT of Delhi) [2003 (11) AIC 857 (Del.)] : [2003(106) DLT 67]**. It has been held that even though he has been acquitted such person does not have right to hold a firearm.

The issue has been dealt with in detail in **Lalan Singh Vs. The State of Bihar & ors [2016(1) PLJR 198]**. It has been held that, while taking a decision regarding revocation / cancellation of licence, the judgment passed by a competent court cannot be scrutinized by the statutory authority to reach to a conclusion. Judgment which has attained finality has to be respected by



everyone. The Full Bench of this Court also in **Kapildeo Singh Vs. the State of Bihar and others** [AIR 1987 Patna 122] has also held that the actual conviction or acquittal on the criminal charge though may not have an inflexible or conclusive impact on the exercise of the discretion by the licensing authority as the holder of licence may be acquitted narrowly by giving the benefit of doubt, the licensing authority could, perhaps, still take the view considering other factors that such person may not be fit for holding an arms licence. Thus, in view of this Court, even if the acquittal is on the basis of benefit of doubt, an order of the revocation / cancellation or refusal of licence can only be passed if the materials other than involvement in that criminal case are available against the petitioner which is not there in the present case. In fact it is the prosecution which has not been able to bring home the charges leading to acquittal. If the prosecution witnesses have become hostile that does not mean that the accused was actually involved in the occurrence. Unless a charge is proved a person cannot be held to be a convict. Therefore, only on the basis that the prosecution could not bring home the charges because the witnesses become hostile, it cannot be held that acquittal was not clean and honourable. In the present case, when other materials or factors have not been considered and have not been brought even to the notice of this Court, this court is of the opinion

that the order impugned is not sustainable at all in law. Accordingly, the same is quashed.

However, the matter remains that the licensing authority has already cancelled the licence in the year 1998 and, at that point of time, the petitioner was in fact involved in a criminal case of serious nature. Thus, in place of remitting back the matter to the licensing authority the petitioner is granted liberty to move afresh by filing an application for grant of fresh arms licence which should be considered by the licensing authority on its own merit and in accordance with law without being prejudiced by the earlier order of cancellation on the basis of involvement of petitioner in the concerned criminal case in which judgment of acquittal has been passed. If such application is filed it is expected that a final decision would be taken within a period of four months from such date.

(Dr. Ravi Ranjan, J)

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