

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22550 of 2014

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Shesh Nath Pandey Son of Late Ranu Barat Pandey, Resident of village - kursa,
P.S.- Dinara, District - Rohtas.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Rohtas.
2. The District Magistrate, Rohtas.
3. The Arms Magistrate, Rohtas.
4. The Commissioner, Patna Division Patna.

.... Respondents

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Appearance:

For the Petitioner : Mr. Bijay Shankar Choubey, Advocate.
For the Respondents : Mr. Ashok Kumar Pathak, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-05-2016

Heard parties.

Petitioner seeks quashing of the order dated 21.11.1998,
as contained in Annexure-2, passed by the District Magistrate-cum-
Licensing Authority, Rohtas at Sasaram by which his firearm licence
has been cancelled. He also assails the order dated 27.03.2012
(Annexure-1) passed by the appellate authority in Arms Appeal no.
14 of 1999 by which his appeal has been dismissed and the order
passed by the licensing authority has been upheld.

No counter affidavit has been filed till date by the
respondents, though this case was filed on 24th December, 2014 itself.

It is contended on behalf of the petitioner that his license
has been cancelled on the ground of his involvement in a police case
bearing Dinara P.S. Case No. 38 of 1994, even though he has been
acquitted honourably by the trial Court vide Annexure-4 which is a
judgment dated 14th August, 1997 passed in Sessions Trial No.

139/75 of 1995/95. It is further contended that under the aforesaid judgment, several accused persons including the petitioner were acquitted of the criminal charges whereas several accused persons were convicted. It is contended that even after noticing the aforesaid fact that the petitioner has been acquitted from the criminal charges, it was not lawful on part of the licensing authority to take a decision for cancellation of his licence.

It is further urged that even the appeal of the petitioner has been rejected, however, identical appeal filed by another co-accused who was later on acquitted along with the petitioner, namely, Shesh Nath Pandey, has been allowed and matter was remitted back to the licensing authority for fresh consideration.

Though it was urged before the licensing authority that the petitioner has already been acquitted of the criminal charges pursuant to the Dinara P.S. Case No. 38 of 1994, still it has been held by the licensing authority that the opposite parties have not denied that occurrence had taken place in which a person was killed and her wife was injured by firing. Therefore, the act of the opposite parties i.e. including the petitioner is serious offence and, as such, arms should not be given in his hands to protect public peace.

In my view, the impugned order as contained in Annexure-2 cannot be sustained at all. Once a person has honourably been acquitted by a Court of competent jurisdiction, after that, it

cannot be held by any statutory authority that he was still involved in such criminal act of serious nature, especially when some of the accused persons have been convicted and sentenced. A reference is made in this regard to a decision of a Full Bench of this Court rendered in **Kapildeo Singh Vs. the State of Bihar and others [AIR 1987 Pat 122]** hold that though conviction or acquittal would not have inflexible impact upon the cancellation or refusal of arms licence but, at the same time, it has been held that the licensing authority, even after acquittal, may proceed to cancel the licence if other grounds are available for doing the same. However, in the present matter, order of cancellation appears to have been passed on the sole ground of involvement of the petitioner in the said criminal case and under wrong pretext that, even after the acquittal, he was responsible for the said criminal act.

Accordingly, the order impugned as contained in Annexure-2 and the appellate order as contained in Annexure-1 are quashed and set aside.

This writ application stands allowed.

(Dr. Ravi Ranjan, J.)

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