

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3900 of 2016

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Ram Ratan Sah @ Ratan Sah Son of Late Ram Bilash Sah, Resident of Village -
Kukurarh, P.S. - Sonhan, District - Kaimur (Bhabhua).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Kaimur (Bhabhua).
4. The Superintendent of Police, Kaimur (Bhabhua).
5. The District Arms Officer, Kaimur (Bhabhua).
6. The Officer in Charge, Sonhan Police Station, District -Kaimur (Bhabhua).

.... Respondents

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Appearance :

For the Petitioner	:	M/s Pankaj Kumar Sinha and Kamla Kishore, Advocates
For the State	:	Mr. Anuj Kumar, AC to G.P. 24

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-11-2016

Heard parties.

Petitioner's firearms licence was cancelled by the licensing authority – cum – District Magistrate, Kaimur vide order dated 10.7.2001 passed in Arms Case No. 01/2001-02 on the ground of his involvement in a police case being Bhabhua P.S. Case No. 87/2001 registered under section 341, 323, 324, 337/34 of the Indian Penal Code and 27 of the Arms Act. Petitioner preferred an appeal which was dismissed on the ground of non maintainability as the licensing authority had used the terms “confiscation proceeding” and “confiscation of gun”. It was held by the appellate authority that,



against such confiscation proceeding, there is no provision of appeal before the Commissioner.

Matter travelled up to this Court as the petitioner filed C.W.J.C. No. 1715 of 2005. In that case counter affidavit was filed on behalf of the State categorically stating that the words confiscation proceeding and confiscation of firearms were mistakenly used and recorded in the order. In fact the proceeding was for cancellation of firearms licence and ultimately by that order firearms licence was cancelled. On such assertions having been made, the order of the appellate authority was set aside and in the changed circumstances the appellate authority was directed to take a fresh decision. Such decision was taken by it vide order dated 9.4.2013 / 8.7.2013 passed in Arms Appeal Case No. 108 of 2011 (Annexure 7). Ground for dismissal of appeal has been taken by the appellate authority that the involvement of licence holder in criminal cases would be a relevant factor for revoking arms licence and the acquittal in criminal case would not bar the authorities from revocation of the licence. Reliance has been placed upon a decision of Kerala High Court rendered in **V.K.Thomas v. Revenue Board, Member [1988 CRL. L.J. 336]**.

A Full Bench of this Court in a decision rendered in **Kapildeo Singh v. State of Bihar and Ors. [AIR 1987 Patna 122]** has held that the conviction or acquittal in a criminal case would not



have any inflexible or conclusive impact on the exercise of the discretion by the licensing authority as the acquittal may be narrowly giving the benefit of doubt. Thus, in such case also the licensing authority has to see as to whether there are other materials available against the petitioner and if such materials are there then even after acquittal the licensing authority would be competent to take a decision for cancellation of licence. However, this Court in **Lalan Singh vs. The State of Bihar through the Chief Secretary & ors.** [2016(1) PLJR 198], after considering the decision of Kerala High Court rendered in **V.K.Thomas (supra)** has held that while doing that, the licensing authority does not have any authority to scrutinize the judgment of the acquittal passed by the competent court and point out defects thereof. Since that has attained finality, would be binding upon everyone including the State which was one of the parties being prosecutor. Therefore, this Court has held that unless there are other materials available against the licensee on the basis of which his licence can be cancelled, it cannot be simply cancelled by criticizing the judgment of acquittal. In my view, that was not the intent of the Full Bench.

In the case in hand, the prosecution has miserably failed to establish the charges against the petitioner, therefore, the judgment of acquittal was passed. Now the licensing authority or the



appellate authority, while considering the issue, cannot take a stand that judgment of acquittal was passed for this reason or that reason. Of course, if other materials are available, on such ground the authority shall cancel the licence.

However, admittedly, when the order of cancellation was passed, the petitioner was involved in a criminal case as a first information report was lodged and he was facing trial also. Judgment of acquittal was not available at that point of time. Therefore, in my considered opinion the order of licensing authority cannot be faulted with for the reason that subsequently the petitioner has been acquitted. Thus, though the order of the appellate authority does not appear to be in conformity with the established legal principle, there is no occasion for quashing and again remitting it back for fresh consideration.

Accordingly, this writ application stands disposed of with liberty to the petitioner to file application for grant of fresh licence before the licensing authority. If such application is made then the licensing authority shall proceed to take a decision in the matter of the petitioner on its own merit and in accordance with law but it is made clear that it cannot take a stand for refusing such licence that petitioner was involved in the aforesaid criminal case which has culminated into passing of a judgment of acquittal. Such



decision should be taken by passing a reasoned and speaking order by the licensing authority within three months from the date of filing of such application and further the fact that the petitioner's licence was earlier cancelled on such ground and order was upheld by the appellate authority.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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