

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12870 of 2005

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Gopal Rai @ Jagarnath Singh, son of Bishram Rai, resident of vill-Khairi,
PS- Kochas, Dist- Rohtas.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Mahesh Prasad No. 2, Advocate
	:	Mr. Rewati Kant Raman, Advocate
	:	Mr. Gopal Sharan, Advocate
For the State	:	Mr. Ranjan Kumar AC to SC 14

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-04-2016

Heard parties.

Petitioner is aggrieved by order dated 29.11.1997, by which, his arms licence no. 586/1974 granted for DBBL gun, was cancelled on the ground that he was involved in a criminal case of serious nature which was registered under Section 302 IPC and other allied Sections. Petitioner's appeal, against the impugned order as contained in Annexure-4, was also rejected on the ground of being time barred. However, a supplementary affidavit has been filed by the petitioner informing that subsequently, vide judgment dated 26.07.2000, the petitioner has been acquitted of the criminal charges. Thus, it is contended on behalf of the petitioner that now the ground,

on which the licence of the petitioner was cancelled, has vanished and as such, petitioner's licence would be restored.

The petitioner places reliance upon a decision of this Court rendered in *Lalan Singh v. The State of Bihar through the Chief Secretary and ors.* 2016 (1) PLJR pg. 198 and another decision rendered by a Full Bench of this Court in *Kapildeo Singh v. State of Bihar and others* (AIR 1987 Patna 122) in which the Court has observed that

“ Under sub-sec. (3) the actual conviction or acquittal on the criminal charge does not have an inflexible or conclusive impact on the exercise of the discretion by the licensing authority thereunder. Even if the holder of the licence may be acquitted by narrowly giving the benefit of doubt, the licensing authority could, perhaps, still take the view that along with other factors such a person may not be fit for holding an arms licence. ”

In *Lalan Singh (supra)*, since the statutory authority had observed that in view of the nature of the judgment of acquittal, such judgment cannot be taken into account for revoking the order of cancellation of licence or for grant of licence, this Court has observed that the statutory authority does not have the right to scrutiny the judgment which has become final unless the same is merely based on

benefit of doubt.

In the present case, it does not appear that there was any other ground for cancellation save and except the involvement of the petitioner in the criminal case, in which, he has ultimately been honourably acquitted of the criminal charge. But at the same time, when the order impugned as contained in Annexure-3 was passed, the judgment of acquittal was not available to the licensing authority and thus, the same cannot be faulted with.

However, in view of the acquittal of the criminal charges, let the matter of the petitioner be considered again by the licensing authority, in view of the subsequent development, without being prejudiced by his earlier order or the order passed in appeal as contained in Annexure-4 which was dismissed merely passed on the ground of limitation.

Accordingly, this writ application is being disposed of with a liberty to the petitioner to approach the District Magistrate, Rohtas at Sasaram by filing an application for revocation of the earlier order of cancellation of licence contained in Annexure-4. On such application having been filed, let him consider the matter in accordance with law and also in view of the subsequent development along with the judgment of acquittal and the present order, on its own merit. While doing that he would be obliged to consider the decision

of this Court rendered in Lalan Singh (*supra*) also. It is expected that such decision would be taken within the period of four months from the date of receipt/ production of a copy of this order. While doing so, he would be at liberty to seek a fresh report from the police with respect to the petitioner.

(Dr. Ravi Ranjan, J.)

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