

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5526 of 2016

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Vishwanath Prasad Singh aged about 50 years, Son of Late Jung Bahadur Singh, Resident of Village - Saidpur, Post Office - Aat, Police Station Ben, District – Nalanda.

.... Petitioner.

Versus

1. The State of Bihar through Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, District Nalanda.
4. The District Arms Officer, District Nalanda.
5. The Superintendent of Police, District Nalanda.
6. The Officer Incharge, Ben Police Station, District – Nalanda.

.... Respondents.

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Appearance :

For the Petitioner: Mr. Tej Narayan singh, Adv.
: Mr. Santosh Kumar Singh, Adv.
: Mr. Satyendra Pd. Singh, Adv.
For the State : Mr. Prashant Pratap, G.P.-2
: Mr. Gyan Shankar, AC to GP-2.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-11-2016

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 09.10.2012 passed by the Licensing Authority-cum-District Magistrate, Nalanda by which the application of the petitioner dated 08.02.2012 vide Annexure-4 for renewal of licence has been ignored and his licence has been cancelled without granting him proper opportunity for renewal of the arms.



It has been stated by the petitioner that in fact his licence stood renewed till 2003 and in the year 2012 he has filed application for renewal but no decision was taken by the Licensing Authority. When he was acquitted of the charge in the year 2012 in a criminal case which was lodged against the petitioner under Sections 147, 148, 149, 448 and 307 of the Indian Penal Code along with Section 27 of the Arms Act in S.Tr. No. 28 of 2011, in the year 2012, he again filed an application, however, the impugned order was passed by the Licensing Authority holding that, since his verification of firearm is pending since 1988 and his license was not renewed since 2004, the petitioner was holding his rifle unauthorizedly in his possession without renewal of license. When the judgment of acquittal was passed in his favour, then only he had applied for renewal in the year 2012. In fact, the authority concerned could have proceeded to refuse renewal of licence of refusal, however, it has cancelled the license.

The petitioner, being aggrieved with the aforesaid order, had approached this Court by filing CWJC No. 451 of 2014, however, that was disposed of granting opportunity to the petitioner to seek remedy of the appeal as available to him under the provisions of Section 18 of the Arms Act read with Rule 5



framed thereunder. The statutory appeal filed has already been dismissed by order dated 19.01.2016 by the Divisional Commissioner in Arms Appeal No. 728 of 2014.

A counter affidavit has been filed on behalf of the State taking a view that the petitioner has filed an application for renewal only after judgment of acquittal was passed in the year 2012. He did not take any action for renewal in between since the last renewal was only in the year 2003. In such a situation, he has not been found entitled for holding license.

Learned counsel for the State has placed reliance upon a Division Bench judgment of the Delhi High Court **in the case of Parveen Kumar Beniwal vs. Govt. of NCT of Delhi & Anr.** passed in LPA No. 41 of 2015 dated 29.04.2015. It is also urged that it was in the mind of the petitioner that in view of his involvement in a criminal case of serious nature, his license would be definitely suspended or cancelled by the authority concerned, thus, he suppressed the issue and sat on the same by not applying for renewal and after obtaining the judgment of acquittal he had applied for renewal after about nine years for renewal of licence. In between, he kept his firearm unauthorizedly in his possession without having any valid license.



Learned counsel for the petitioner has pointed out that there is no specific denial of the statement made in paragraph 6 of the writ petition that his application for renewal was actually filed in the year 2005 vide Annexure-1 and the authorities themselves are to be blamed for not taking any decision. In paragraph 9 of the counter affidavit though there is no specific denial, however, in paragraph 6, it is categorically stated that the petitioner filed the application only after obtaining judgment of acquittal in the year 2012. That apart, though it appears from Annexure-1 that the application for renewal was filed in the year 2005 but at the same time it is quite apparent that the factum of his involvement in a criminal case of serious nature under Section 307 of the Indian Penal Code and Section 27 of the Arms Act was suppressed by him as there is no statement regarding that in Annexure-1. Apart from the above, he has also not appended any copy of challan depositing the requisite fee for renewal of licence with the writ petition to support his claim that he has filed such application for renewal in the year 2005 himself. It is also not stated anywhere in the writ petition that on earlier occasion, during which his licence got renewed time to time, he had disclosed the fact of his involvement in a criminal case of serious nature lodged in the year 1999. This clearly



indicates towards his intention to suppress the aforesaid fact and somehow retain his firearm even without having a valid license. There is no explanation as to under what authority the petitioner was in possession of a firearm without having valid licence in 2012, i.e., the date on which he informed the authorities that he has been acquitted of the charges and has applied for renewal of licence. This clearly indicates towards the conduct of the petitioner.

In my opinion, serious inquiry should be made in this regard also as to under what circumstances, even after involvement of the petitioner in a criminal case of serious nature in the year 1999, itself no step could be taken by the authority concerned either for suspension or cancellation of licence. In my considered view, the petitioner's claim that the order has been passed without hearing him is also not tenable as the order impugned, in fact, was required to be passed only for refusal to renew the licence as there was no question of cancellation of licence in such circumstances because there was no valid licence in favour of the petitioner at the relevant point of time. Thus, in my view, the order clearly indicates that the licensing authority has merely refused to renew the licence in the aforementioned facts and circumstances.



Accordingly, I do not find it a case warranting interference of this Court. As a result, this writ petition is dismissed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
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