

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1875 of 2012

IN

Civil Writ Jurisdiction Case No. 7280 of 2006

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Madhup Kumar Singh, son of Shambhu Nath Singh, resident of Village - Rajopatti,
Dumra Road, Police Station - Dumra, District – Sitamarhi. Appellant.

Versus

1. The State of Bihar,
2. The Commissioner, Koshi Division, District – Saharsa,
3. The District Magistrate, District Saharsa, Respondents.

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Appearance :

For the Appellant : Mr. Sanjeet Kumar Adv.

Mr. Ram Das Singh, Adv.

For the Respondents : Mrs. Namrta Mishra, GP-13

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-02-2016

The present Intra-Court appeal under Clause-10 of the Letters Patent of the Patna High Court has been filed by the appellant, being aggrieved by the judgment and order of the learned Single Judge dated 30.07.2012 passed in C.W.J.C. No.7280 of 2006, by which the writ application was filed challenging the order dated 25.06.2005, cancelling the Arms Licence No.32/4760 of the petitioner/appellant by the District Magistrate, Saharsa, as affirmed in Arms Appeal No.07 of 2005 filed by the petitioner/ appellant vide order dated 11.02.2006, by the Divisional Commissioner, Koshi Division, Saharsa. The aforesaid orders under the provisions of the Arms Act have not been interfered by the Writ Court and the writ application being

dismissed, this Intra-Court appeal.

2. We have heard the learned counsel for the appellant and the State and with their consent, this appeal has been heard for final disposal at this stage itself.

3. The petitioner/appellant was a permanent resident of village Rajopatti, P.S. Dumra, District Sitamarhi. He was, at the relevant time, working as a contractor in Saharsa. He applied for an arms licence to the District Magistrate, Saharsa, clearly stating that he is permanent resident of Sitamarhi and his present address is of Saharsa. Accordingly, he was granted Arms Licence No.32/4760 for non-prohibited bore arms by the District Magistrate, Saharsa, which arms licence was valid for the entire State of Bihar and is annexed as Annexure-1. A reference to the arms licence would show both his permanent address of Sitamarhi and present address of Saharsa duly mentioned therein. The arms licence, so granted, was valid up to the year 2003. Thereafter, the petitioner/ appellant applied for his renewal by paying the licence fee by a challan of Rs.120 in the year 2004-06. The petitioner/ appellant then shifted back to his permanent residence at Sitamarhi, therefore, he filed an application before the District Arms Magistrate, Sitamarhi for endorsement of his licence accordingly. The District Arms Magistrate, Sitamarhi on

17.08.2004 wrote to District Arms Magistrate, Saharsa. In stead of responding to the same, the petitioner/appellant received a letter dated 29.04.2005 from the District Magistrate, Saharsa stating that why his arms licence be not cancelled. The ground being that, before arms licence was granted to him at Saharsa, police verification had not been obtained. Ultimately, by the impugned order dated 25.06.2005 of the District Magistrate, Saharsa, the arms licence granted to the petitioner/appellant was cancelled.

4. The main ground for cancellation of the arms licence was that on subsequent verification, allegedly, the petitioner/ appellant was not found to be residing at the Saharsa address and as such he had earlier wrongly obtained the arms licence.

5. Having considered the matter, in our view, there had been no wrongful disclosure at the time when the arms licence application was filed. The arms licence (Annexure-1) itself shows a clear mention of his permanent address of Sitamarhi and present address of Saharsa. There is no allegation that any of the terms and conditions of the licence, so granted, had been violated. We are of the considered view that, in view of the aforesaid two facts, there was no occasion for the authorities to cancel the arms licence once it was so granted. Granting of arms licence is in exercise of

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statutory powers under the Arms Act. It is for the authorities to consider the grant or not to grant the licence. The petitioner/appellant had made a disclosure about his permanent address and his present address, the arms licence was granted. It is only, subsequently, when he wanted the said licence to be endorsed, as being now permanent resident of Sitamarhi, deleting his temporary address, this enquiry and action was taken to cancel the arms licence. Cancellation of arms licence, already granted, can only be made on the ground if under the Arms Act, undisputedly it is not mentioned, the petitioner/appellant had contravened any terms and conditions of the grant of arms licence. In our considered view, a licence so granted could not be cancelled.

6. Thus, the order dated 25.06.2005 of the District Magistrate, Saharsa, the appellate order dated 11.02.2006 of the Divisional Commissioner, Koshi Division, Saharsa and the order dated 30.07.2012 passed in C.W.J.C. 7280 of 2006 by the learned Single Judge cannot be sustained. They are, accordingly, set aside. This appeal is allowed.

(Hemant Gupta, J.)

(Navaniti Prasad Singh, J.)

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