

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6042 of 2016

=====

Ajay Kumar Singh Son of late Shyamli Singh Resident of Village- Sethna
Salaunja, PS Halsi, District Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate Lakhisarai District Lakhisarai .
3. The District Arms Magistrate Magistrate Lakhsarai, District Lakhisarai.
4. The In-charge Officer District Arms Magistrate, Lakhisarai.
5. The Superintendent of Police, Lakhisarai District Lakhisarai.
6. The Officer-in-Charge, Halsi Police Station District Lakhisarai.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Ram Vinay Prasad Singh (Sanjay),
Advocate

For the State : Mr. Umesh Kumar AC to AAG XIV

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-11-2016

Heard parties.

Petitioner is aggrieved by the order 26.2.2016 contained
in Annexure 17 passed by the licensing authority by which his
firearm licence has been cancelled.

Petitioner had earlier approached this Court against the
suspension of his firearm licence. Matter was heard in detail and the
writ petition was allowed vide judgment dated 24.9.2015 passed in
C.W.J.C. No. 20840/2014 (Annexure 16). The matter was remitted
back to the licensing authority for fresh consideration but this time,



the licensing authority has proceeded further and firearm licence of the petitioner has been cancelled.

From perusal of the order, it appears that though passage of Full Court decision of this Court rendered in **Kapildeo Singh vs State of Bihar & Ors. [AIR 1987 Pat 122]** has been quoted, but the same does not appear to have been followed. Of course the Full Bench has held that under sub section (3) (a) it is the subjective satisfaction of the District Magistrate as to whether for some reason the holder is unfit for the licence or not, however, at the same time the Full Bench has proceeded to hold that for cancellation or refusal of licence the licensing authority would have to record a finding as to why such steps is being taken by it. The Full Court has further held that there is no provision of suspension or revocation of licence during the pendency of a criminal case against the licensee but the licensing authority has such power, however, it has been strongly cautioned as each and every criminal case would not inflexibly warrant suspension or revocation of a licence validly granted as the cases may vary from a paltry traffic offence to the most horrendous capital crime. In the impugned order, the licensing authority has recorded only one finding that if the cases against the petitioner are proved then in case of conviction he may be directed by a competent court to go under imprisonment for 7 years,



therefore, his licence should be cancelled.

In my opinion, such stand cannot be taken by the licensing authority. Even if charge sheet has been submitted for the alleged offence against a person it does not mean that the conviction is inevitable. Such conviction cannot be presumed by him. The authority itself has to ascertain as to whether the charges are so grave that the firearm in the hand of the petitioner would be detrimental for public peace and tranquility. This has not been answered by the licensing authority. The charges against the petitioner is under section 420 of the Indian Penal Code, i.e., regarding cheating etc. The charges are not for assault to any body or using firearm etc., thus, in my opinion the involvement of such type of cases would not automatically warrant suspension or cancellation of firearm licence. A finding must be recorded by licensing authority regarding that.

Secondly, even if that is found to be necessary by the licensing authority then it is not understandable as to why it has chosen, in place of suspension of licence, to cancel the same specially when the police case is not under the Arms Act or for assault on any person. Even if the order of suspension is passed, the licensee would have to deposit his gun before a competent authority, thus, he would not be able to use it unless the suspension is revoked.



Thereafter, if conviction would follow the licensing authority may cancel the licence. Thus, in my view, there was no occasion for him to cancel the licence in such type of matter. A reference in this regard is made to a decision of Division Bench of this Court in **Mahesh Sharma vs. The State of Bihar [2008(3) PLJR 186]**.

Accordingly, in my view the order impugned is not at all sustainable in law and is quashed and set aside.

The matter is remitted back to the Licensing Authority to take a fresh decision in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2017
Transmission Date	NA

