

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10133 of 2013

=====

Pawan Kumar Singh Son Of Late Dudheshwar Singh Resident Of Village -
Bajariyan, P.S. Sahar, District - Bhojpur

.... Petitioner

Versus

1. The State Of Bihar
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Bhojpur, Arah
4. The Superintendent Of Police, Bhojpur, Arah
5. The Officer - In - Charge, Sahar Police Station, District - Bhojpur

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Shivjee Singh,
Mr. Sanjay Kr. Advocates
For the State : Mr. Prabhat Kr., A.C. to G.A. 2

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the Annexure 13 which is an order dated 21.08.2000 passed by the District Magistrate-cum-Licensing Authority, Bhojpur at Arah by which his application for restoration of arms licence has been rejected by the Licensing Authority. He also challenges the appellate order dated 26.03.2010, as contained in Annexure 14, by which his appeal has been dismissed upholding the order passed by the District Magistrate.

The petitioner, after cancellation of the licence, had approached the appellate authority on earlier occasion also. The appeal though was dismissed, however, the petitioner was granted



liberty to approach the Licensing Authority, in case he is acquitted of the criminal charges, for review of the order of cancellation of licence. The petitioner, after his acquittal in both the cases, had approached the Licensing Authority for restoration of licence. However, the same has been rejected on the ground that the petitioner did not deposit the gun and kept it for five years illegally and for which a criminal case under Section 25(4) of the Arms Act was also lodged and also on ground that public opinion is against the petitioner as had that not been the case, he would not have been implicated in a criminal case.

In my considered opinion, such stand taken by the Licensing Authority is erroneous inasmuch as the allegation of keeping the firearm even after the notice for depositing the same was the genesis for filing a criminal case under Section 25(4) of the Arms Act, 1959 for which the petitioner has already been acquitted of course granting benefit of doubt. So far other cases lodged under Section 302 and other Sections of the Indian Penal Code is concerned, the petitioner appears to have been acquitted in that case as the prosecution miserably failed to bring home the charges. That being the situation, the such allegation cannot form a basis for again rejecting the request of the petitioner for restoration of licence as the appellate authority had already granted liberty to him for moving before the Licensing Authority in case of his acquittal in criminal matters. Of course, the Full Bench of this Court rendered in **Kapildeo**

Singh Vs. the State of Bihar and others [1987 BBCJ 274] has opined that acquittal from the criminal charges does not have inflexible or conclusive impact on the exercise of discretion of the Licensing Authority as the holder of the licence may be acquitted by narrowly giving benefit of doubt, thus, the Licensing Authority could still take a view that along with other factors such a person may not be fit for holding arms licence. However, in the present case, no other factor has been considered by the Licensing Authority rather the issue which was the genesis of registering the criminal case in which the judgment of acquittal has been passed, has been taken as ground or basis for rejecting the prayer, which, in my view, is erroneous.

Accordingly, the writ petition succeeds. The orders impugned are 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 three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

U			
---	--	--	--