

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16087 of 2014

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Sheojee Rai @ Sheoji Singh Son of Late Ram Dhani Rai resident of village-
Govindpur, P.S.- Nawanagar, District- Buxar

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Buxar
4. The Superintendent of Police, Buxar
5. The Sub-Divisional Police Officer, Dumraon, District- Buxar
6. The Officer-in-charge, Nawanger, District- Buxar
7. The Assistant Sub Inspector Basudewa, O.P. P.S.- Nawanagar, District- Buxar

.... Respondents

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Appearance :

For the Petitioner : M/s Jagdish Prasad and
Anirudh Mishra, Advocates
For the State : Mr. Anuj Kumar, AC to SC 7

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-02-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of order dated 22.11.2007, as contained in Annexure 8, passed by the District Magistrate – cum – licensing authority, Buxar by which his licence no. 302/84 has been cancelled. He also seeks quashing of the order dated 18.3.2014/28.4.2014 passed by the Divisional Commissioner, Patna Division, Patna in Arms Appeal No. 18/2008 by which his appeal has been dismissed and the order passed by the licensing authority has been affirmed.

It is contended on behalf of the petitioner that a false



case was instituted against him being Nawanagar P.S. Case No. 14 of 2007 on 29.1.2007 under Sections 147/323/337/504 and 27 of Arms Act and on that basis only the licence of the petitioner has been cancelled. It is contended that unless the petitioner is held guilty by a competent court, his licence should not be cancelled by the licensing authority. It is next contended that the order impugned has been passed by the licensing authority without granting reasonable opportunity to the petitioner.

Learned counsel appearing for the State submits that the allegation against the petitioner in the aforesaid police case is that he has fired by his licenced gun for terrorizing the people.

Learned counsel for the petitioner has placed reliance upon two decisions, one by a single Judge Bench rendered in **Amar Sinha Vs. District Magistrate, Monghyr and anr [1990 PLJR 217]** and another by a Division Bench in **Jagamba Singh Vs. State of Bihar and anr [1993(2) PLJR 107]**. In **Amar Sinha (supra)** a learned Single Judge has made a reference to a decision of Full Bench rendered in **Kapildeo Singh vs State Of Bihar And Ors. [AIR 1987 Pat 122]**. The Full Bench has held that even during the pendency of a criminal case, on its subjective satisfaction, the licensing authority can suspend or cancel the firearms licence. However, the authority has been cautioned that a criminal case may



range from a paltry traffic offence to the most horrendous capital crime and whilst the pendency of the former may hardly provide an adequate basis under Section 17(3), in the case of the latter after notice and hearing of the explanation given by the licensing authority, such action may well become necessary. Since it has been held by the Full Bench that before suspension or revocation of licence invariably an opportunity should be given to show cause against such action, this Court is also of the view that the reasonable opportunity should be granted. Now it has to be seen that whether such opportunity has been granted to the petitioner or not.

The petitioner has stated in paragraph 10 of the writ application that order dated 1.9.2007 was passed by the District Magistrate without asking a show cause from the petitioner and his licence was suspended, however, since subsequently the licence has been cancelled and it is not stated in the writ application that before cancellation of the licence reasonable opportunity was not given coupled with the fact that the impugned order as contained in Annexure 8 itself shows specially in paragraph 3 thereof that before cancellation of firearm licence opportunity for hearing was provided to the petitioner and, thereafter, the order has been passed, in my view, this case cannot succeed on such count. Secondly, admittedly the petitioner is involved in a case not only registered under different

sections of Indian Penal Code but also under Section 27 of the Arms act. In my view that would be serious nature of case and in such a situation the licensing authority is fully empowered and authorized to take a view that during the pendency of such case in which there is allegation of firing from the licenced gun even though it did not hit anybody, firearm in possession of such person may not be safe for the public peace.

Accordingly, this writ application has to fail and is accordingly dismissed.

However, since the claim of the petitioner is that false case has been lodged against him, in case of his acquittal in the case he would be at liberty to approach the licensing authority for grant of fresh firearm licence. In such a situation the licensing authority would be required to take a decision in accordance with law without being prejudiced by the earlier order of cancellation which is on the ground of involvement of the petitioner in that case.

(Dr. Ravi Ranjan, J)

Spd/-

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