

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10093 of 2016

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Amarjeet Kumar Singh Son of Birendra Singh Resident of Village & Post-Malaypur, District Jamui.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Bihar, Patna.
2. The Collector-cum-District Magistrate, Jamui.
3. The District Arms Officer-cum-Licensing Authority , Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr. Indradeo Prasad, SC27

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-01-2017

Vide order dated 21.11.2016 this Court had opined that assistance of learned Advocate General is required in this matter. However, on the next date of hearing, on the request made by learned counsel for the State, an order was passed that in place of Advocate General, the Principal Additional Advocate General may appear in the case. The matter was again adjourned on 5.12.2016 and 19.12.2016 on the request of the State. However, today, learned counsel for the State informs that neither the Advocate General nor the Principal Additional Advocate General is available.

Be that as it may, since the counter affidavit has already been filed, this Court is inclined to consider the matter on its own merit.

I have heard learned counsel for the petitioner and the



State.

The petitioner is aggrieved by the order dated 23.9.2015, as contained in Annexure 3, by which his licence No. 1/2009 granted for N.P. Bore revolver has been cancelled along with 44 other persons. The petitioner also seeks quashing of the order of cancellation of licence No. 4/2004 of his N.P.Bore rifle.

It is contended that though it is true that for some reason the petitioner could not purchase the firearm but the licence has been cancelled without granting him reasonable opportunity to make out his case which is mandatorily required.

Counter affidavit has been filed on behalf of the respondent nos. 2 and 3. It has categorically been stated in paragraph no. 8 of the counter affidavit that the licence No. 4/2004 granted for N.P. Bore rifle has not been cancelled as yet though licence No. 1/2009 granted for N.P.Bore revolver has been cancelled vide the impugned order. It has been stated on behalf of the aforesaid respondents that vide Annexure 'Ga', a general notice was published in the newspaper directing the licence-holders to produce their firearms for verification in view of ensuing election but the petitioner and others did not produce the same. It is also stated that personal notice under registered cover was also given for that purpose and receipts showing issuance of registered cover have been appended along with the counter affidavit.



However, from perusal of Annexure 'Ga', it appears that the same was not issued for not purchasing the firearms rather the notice was published directing the licence-holders to produce their weapons for verification, whereas, impugned order as contained in Annexure 3 discloses that the petitioner's licence has been cancelled on the ground that he has not produced the weapon after its purchase even after grant of licence in the year 2009.

Now the issue being raised by the petitioner is as to whether any notice for cancellation of the licence on the ground that he could not purchase the firearms was ever issued? The counter affidavit does not disclose it that any notice for that particular purpose was ever issued upon the petitioner rather the general notice indicates that all the persons who were possessing firearms under valid licence were required to produce their weapons for verification but the case of the petitioner that he has not purchased firearm at all, therefore, there would be no question of producing the same for verification.

In my view, for cancellation or suspension of licence, a reasonable opportunity is required to be given to the licensee before taking a punitive action. A reference in this regard is made to a decision of this Court rendered in **Amar Sinha Vs. The District Magistrate, Monghyr & anr [1990 PLJR 270]**. Learned Single Judge after appreciation of the law laid down by the Full Bench in



Kapildeo Singh vs State Of Bihar And Ors. 1987 [AIR 1987 Pat 122] has opined that suspension or revocation of arms licence on “any ground” without affording an opportunity of being heard is bad and in violation of principles of natural justice.

However, at the same time, it is also true that though the licence was granted to the petitioner in the year 2009 but he has not been able to purchase firearm till date.

Accordingly, this writ application is being disposed of by holding that the impugned order, as contained in Annexure 3, would be kept in abeyance or remain ineffective for a further period of six months. Within such period, the petitioner would be at liberty to purchase the firearm and necessary permission should be granted by the licensing authority for that. If the petitioner is able to purchase the firearm then the matter would end and Annexure 3 would not be revived but if he again fails to purchase the firearms within the aforesaid period of six months then the Annexure 3 would automatically stand revived.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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