

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6950 of 2016

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Ambuj Nayan Chaubey, S/o Late Rajiv Nayan Chaubey, Address C/o Rajendra Pathak Mohalla- Lohia Nagar, P.S.- Town, District- Begusarai, presenly residing at B.S.I.D.C. Colony, Boring- Patliputra Road, P.S.- Patliputra, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna, Bihar
2. The District Magistrate, Begusarai

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Chakrapani, Adv.
Mr. Vikas Kumar, Adv.

For the Respondent/s : Ms. Archana Meenakshee, GP-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 29-03-2017

Heard Mr. Chakrapani, learned counsel appearing for the petitioner and Ms. Archana Meenakshee, GP-6, for the State.

The petitioner is a practicing Advocate of this Court and is aggrieved by the general order bearing Memo No. 460 dated 28.9.2015 of the District Magistrate, Begusarai in so far as it proceeds to cancel the arms licence of the petitioner in exercise of powers vested under section 17(3) of the Arms Act, 1959 (hereinafter referred to as 'the Act') and Rules framed thereunder, inter alia, on the alleged failure of the petitioner to deposit his firearm following a notice so published by the District Magistrate in the light of the advisory issued by the Election Commission on the onset of the Assembly Election 2015. A copy of the order is impugned at Annexure 3 and the name of



the petitioner appears at serial no.36 of the order.

The facts are in a very very narrow compass. The petitioner, a practicing Advocate of this Court, was granted an arms licence under the provisions of 'the Act' and the Rules framed thereunder for his N.P.Bore Revolver/ Pistol for the Bihar Area in the year 1999. A copy of the licence is placed on record vide Annexure 1 and the said licence has been continuously renewed from time to time and was having a valid renewal until 2016, as confirmed from the renewal order present at Annexure 2 i.e. until the order impugned was passed. The only default on the part of the petitioner is that he has not read the notice published in the newspaper and thus, the notice published by the District Magistrate, Begusarai requiring all licensees to deposit their arms in the light of the advisory issued by the State Election Commission for General Assembly Elections, 2015, went unnoticed and hence, having been held a defaulter and in not obeying the directives of the District Magistrate that the licence of the petitioner alongwith 130 others was cancelled by the order impugned.

The short argument advanced by Mr. Chakrapani, learned counsel appearing on behalf of the petitioner, is that it is a bonafide mistake of the petitioner because except for the alleged notice published in the newspaper, no individual notice or even a communication was received in this regard and no sooner did the



petitioner gather knowledge of the directives that he has immediately deposited his firearm with the registered arms dealer, M/s Navin and Company on 20.10.2015 when the petitioner received a notice regarding cancellation of licence which is impugned herein. The evidence for depositing the firearm is placed at Annexure 4 to the supplementary affidavit.

A counter affidavit is on record and Ms. Archana Meenakshee, learned State Counsel, in reference thereto has submitted that since the petitioner had defaulted to the public notice, hence the impugned order which is in tune with the statutory provisions.

Having heard learned counsel for the parties and considering the nature of default as well as the fact that neither any communication nor any individual notice was received by the petitioner requiring him to deposit the licence, the cancellation of licence simply on grounds that the public notice published in the newspaper has escaped the notice of the petitioner even in absence of any other default giving the reason for cancellation, is found extremely harsh and accordingly cannot be upheld.

The petitioner is a law abiding citizen which is evident from the fact that no sooner did he gather knowledge about the cancellation of licence, he has deposited the arms on 20.10.2015 vide Annexure 4 to the supplementary affidavit.



In the circumstances discussed and considering the reasons assigned for cancellation of licence in the backdrop of the fact that there was no deliberate laches or avoidance on the part of the petitioner to abide by the directions, I am unable to uphold the cancellation order in so far as the petitioner is concerned and which is accordingly quashed and set aside.

The writ petition is allowed and as a consequence the petitioner would be at liberty to apply for renewal of his licence which prayer shall be considered and disposed of within a period of six weeks from the date of filing of such application.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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