

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1687 of 2015

In
Civil Writ Jurisdiction Case No.705 of 2001

1. Nathuni Prasad Singh Son of Jagdeo Singh
2. Lakshman Singh Son of Radha Singh
Both Resident of Village: Karup P.S Kargahar, District Rohtas.
... .. Appellants

Versus

1. The State of Bihar
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. Jawala Singh Son of Late Sheopujan Singh, Resident of Village: Karup P.S Kargahar, District Rohtas.
... .. Respondents

Appearance :

For the Appellants : Mr. Rajendra Narayan, Senior Advocate
Mr. Satyapal Singh, Advocate
For the Respondent State: Mr. Avnish Nandan Sinha, G.P.-21
Mr. Jay Prakash Sharma, AC to GP-21

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 27-03-2018

Heard learned counsel for the parties.

There are two appellants before this Court who are assailing the order dated 30.03.2015 passed by the learned single Judge. The learned single Judge refused to quash the order of the Divisional Commissioner, Patna Division, dated 28.08.2000 passed in Case No.159 of 1999. The Divisional Commissioner has affirmed the order of the Collector dated 12.10.1999 where prayer of these appellants to release their arms in their favour was rejected.



The origin for such action on behalf of the Collector was said to be a report that there were two rival groups in a village who used to fight for their supremacy and there used to be many battles fought and even exchange of fire had been alleged. This led to institution of Sasaram (T) P.S. Case No. 586/1991, 194/1996, 195/1996 and Kargahar P.S. Case No.77/1995, 35/1997, 42/1997 and 43/1997. it is also alleged that one Satyendra Prasad Singh and one Ajay Kumar Rai got killed in exchange of fire in the past. Such death further surcharged the atmosphere of the village.

This formed the basis for a direction by the District Magistrate, Rohtas at Sasaram to direct surrender of arms of all the license holders of the village. These appellants are supposed to have resisted surrender of arms. It is much later that they had surrendered their arms after suspension of their license by the District Magistrate. The appellants went in appeal. In one case, in the case of one Bharat Singh, his arms license was restored because he was said to be a government servant and not a regular resident of the village whereas so far as these appellants are concerned, the order of suspension came to be affirmed by the Divisional Commissioner in the year 2000.

No doubt the learned single Judge did not interfere with the order of the Divisional Commissioner in the facts and



circumstances which led to the suspension of the license but the learned single Judge seems to have missed out on the basic fact that the order of suspension was passed by the Collector way back in the year 1999 and the order of suspension had remained in force after its affirmance by the Divisional Commissioner in the year 2000. The writ application was preferred in the year 2001, but it came to be decided on 30.03.2015.

The learned single Judge should have kept this in mind that 21 years has gone past. Since then there is no report or input even on behalf of the State that the situation has remained the same and the people involved in such incidence of the year 1997 are still a threat to each other or the society.

If the suspension of the arms was necessitated at the relevant time, suspension of license of arms cannot become a kind of punishment of perpetual suspension amounting to cancellation. Order of suspension for 21 years partakes the nature of cancellation which is impermissible. Nature of suspension for 21 years is a long time for any arms license to remain under suspension.

In the above situation, keeping in mind that more than two decades has passed since the order of suspension of the license by the Collector and it's affirmance by the Divisional Commissioner,



the appeal is allowed. The District Magistrate, Rohtas at Sasaram is directed to pass an order restoring the arms license in favour of the appellants so that the arms can be released in their favour within a period of three months from the date of production of a copy of this order unless something new has emerged for which a new cause of action will arise and the previous order cannot continue to operate indefinitely.

Appeal is allowed in terms of the above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	31.03.2018
Transmission Date	N/A

