

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14285 of 2018

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Kamal Prasad Singh, Son of Late Bindeshwari Singh, Resident of Village-
Lahuar, P.O.-Telhar, P.S.-Mahishi, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Home,
Govt. of Bihar, Patna.
2. The District Magistrate, Saharsa.
3. The District Arms Magistrate, District-Saharsa.
4. The Superintendent of Police, District-Saharsa.
5. The Officer in Charge, Police Station-Mahishi, District-Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Adv.
For the Respondent/s : Mr. Partha Sarthi, GA-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 06-08-2018

Heard learned counsels for the parties.

Through the present writ application, the petitioner has questioned the validity of the order of the Respondent No. 2, the District Magistrate, Saharsa issued vide Memo No. 580 dated 21.04.2014 as contained in Annexure-3, whereby the petitioner's licence for DBBL gun has been put under suspension since the petitioner is accused in two cases with the accusation that the petitioner indulged in threatening the voters on the eve of election. By the said order the petitioner has been asked to deposit his gun No. 7301049 with Mahishi police station by 23.04.2014 and also to submit his show cause as to why the licence be not canceled.



It is submitted by learned counsel for the petitioner that a dacoity was committed in the house of the petitioner in 1972 and consequently an application was made for grant of licence for the DBBL gun and after due verification the same was granted in 1973 vide licence number 2385 for the DBBL gun, whereafter DBBL gun No. 7301059 was purchased and thereafter it was renewed from time to time and the licence is valid till 2019 which was lastly renewed in 2017.

The petitioner received a notice dated 06.04.2014 issued under the signature of SHO, Mahishi police station, whereby the petitioner was directed to deposit his arms along with the licence. In pursuance to the notice, the petitioner appeared before the Respondent No. 5, SHO, Mahishi police station with gun and licence where it was informed that due to general election he has to deposit the arms and accordingly, the petitioner deposited the arms before the Respondent No. 5, SHO, Mahishi police station and a receipt was granted on 07.4.2014 with the signature of SHO, Mahishi police station, as contained in Annexure-2.

Subsequently vide Memo No. 580 dated 21.04.2014 issued under the signature of Respondent No. 2, the District Magistrate, Saharsa, as contained in Annexure-3, the petitioner was intimated to deposit his Gun No. 7301049 with Mahishi police



station by 23.04.2014 and also to submit his show cause as to why the licence be not suspended since the petitioner indulged in threatening the voters on the eve of election and is accused in Mahishi P.S. Case No. 160 of 2010 registered under Section 341, 323, 380 and 504/34 of the IPC and Mahisi P.S. Case No. 61 of 2007 registered under Section 384 of the IPC. The petitioner submitted his show cause to the effect that Mahishi P.S. Case No. 160 of 2010 was registered as a counter blast to the case lodged by the petitioner's side being Mahishi P.S. Case No. 159 of 2010 and ultimately after investigation Mahishi P.S. Case No. 160 of 2010 was found true only under Sections 323, 341 and 504/34 whereas in Mahishi P.S. Case No. 61 of 2007 the petitioner was not named. The petitioner submitted in the show cause that in both the cases there is no accusation with regard to misuse of arms, but till date, no decision has been taken in the proceeding initiated by the Licensing Authority, whereas vide the impugned order dated 21.04.2014, as contained in Annexure-3, proceeding was initiated for suspension of the petitioner's arms licence on 21.04.2014.

The petitioner submitted a representation on 05.02.2015 before the Licensing Authority Respondent No. 2, the District Magistrate, Saharsa, as contained in Annexure-5, explaining in detail that on the basis of wrong factual details the licence of the



petitioner has been put under suspension. Ultimately Respondent No. 4, the Superintendent of Police, Saharsa vide letter No. 19 dated 06.02.2015 transmitted a report, as contained in Annexure-6, to the Respondent No. 2, the District Magistrate, Saharsa recommending for release of the arms of the petitioner, since there is no evidence with regard to misuse of the arms. However it has been stipulated in the report, as contained in Annexure-6, that the petitioner is accused in a case in which final form was submitted under Sections 341, 323, and 504/34 of the IPC. In spite of the said report Respondent No. 2, the District Magistrate, Saharsa has not taken any action in the matter.

Consequently, vide Memo No. 1178 dated 02.09.2015 issued under the signature of Respondent No. 3, the District Arms Magistrate, Saharsa, as contained in Annexure-8, the petitioner was directed to deposit the arms licence within three days to verify as to for what period the licence has been renewed, whereafter the petitioner deposited the arms licence with the office of Respondent No. 3, the District Arms Magistrate, Saharsa on 16.10.2015 and obtained a receipt, but thereafter again since the matter remained pending, the petitioner sought an information with regard to the stage of proceeding under which his arms licence was suspended. Ultimately in pursuance to the order of the Appellate Authority



under RTI Act, the information was provided to the effect that the enquiry report has been sought for from Respondent No. 4 and the matter is pending on the point of suspension of licence. Despite a substantial delay decision has not been taken till date, hence the present writ application. However, it has been specifically been stated in paragraph 6 of the writ application that licence was renewed for the years 2017-2019.

Mr. Parthsarathi learned GA 4 submits at present he is not having any instruction, but if no decision has been taken in the proceeding till date, the same will be taken within a reasonable time.

This Court is dismayed to find that the arms licence of the petitioner has been put under suspension since 2014 and despite having passed four years, the Licensing Authority is yet to decide the issue.

In the circumstances, the Licensing Authority Respondent No. 2, the District Magistrate, Saharsa is expected to take a final decision in the matter within a period of four weeks from the period of receipt/production of a copy of this order keeping in view the fact that both the cases, referred to above, which forms the basis of suspending the licence of the petitioner, were registered in the year 2007 and 2010, respectively, whereas



the licence of the petitioner was verified/renewed up to 2017-2019 on the basis of the police report, which is suggestive of the casual and laid-back manner in which the office of the Licensing Authority Respondent No. 2 is functioning.

With the aforesaid observation/direction, this writ application is disposed of.

(Dinesh Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

