

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11940 of 2007

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Manoj Kumar @ Manoj Yadav, S/o Sri Raghunandan Prasad Yadav, R/o
Narayanpur, P.S.-Jankinagar, District-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Purnea.
2. The District Magistrate, Purnea.
3. The Superintendent of Police, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Pd. Singh No.1, Adv.
Mr. Shailendra Kumar Singh
For the State : Mr. Anuj Kumar, A.C. to S.C.-12

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 04-12-2018

Heard the learned counsel for the petitioner and
the State.

2. The petitioner, a firearm licence holder, is
aggrieved by the order dated 13.03.2004 passed by the
District Magistrate, Purnea, whereby his Arms Licence No.
03 of 1999 for N.B. Bore Rifle has been cancelled as well as
the order dated 23.05.2007 passed by the Commissioner,
Purnea in Arms Appeal No. 11 of 2004, whereby the order



passed by the District Magistrate, cancelling the licence of the petitioner with immediate effect, has been affirmed and upheld.

3. From the records, it appears that on 28.03.2001, a show-cause notice was issued to the petitioner for explaining as to why his licence bearing Arms Licence No. 03 of 1999 be not cancelled as information has been received from different police stations that he is an accused in several cases of heinous nature. Pursuant to the aforesaid notice, the petitioner submitted his reply stating that all the cases were politically motivated and in fact in no case has he been charge-sheeted.

4. The respondent authorities were not passing any order, forcing the petitioner to approach this Court for a direction to conclude the proceeding and pass an order on such show-cause notice. In C.W.J.C. No. 2101 of 2003 referred to above, the licensing authority, viz., the District Magistrate, Purnea was directed to dispose of the proceeding with respect to cancellation of the licence of the petitioner expeditiously. It appears that immediately after this order,



the District Magistrate, Purnea, by a cryptic order, dated 13.03.2004, cancelled the licence of the petitioner. The only reason which has been assigned in the aforesaid order is that the Superintendent of Police had sent a report that the petitioner was involved in the murder of one Buttan Singh and was also wanted in a C.B.I. case.

5. Aggrieved by the aforesaid order passed by the District Magistrate, Purnea, the petitioner preferred an appeal before the Commissioner, Purnea, which too was dismissed *vide* order dated 23.05.2007. Here again, the reference is of several criminal cases pending against the petitioner as the major ground for upholding the cancellation of licence of the petitioner.

6. The learned counsel for the petitioner has drawn the attention of this Court to the fact that by an order of this Court, the records relating to the case of the petitioner was called for. On perusal of the records, this Court finds that there are two reports of the S.D.P.O. of the concerned police station, which indicates that in almost all the cases listed against the petitioner, either the petitioner is



not named in the First Information Report or after investigation, final report has been filed, holding that there was no clue to the accusation of anyone, much less the petitioner. All these aspects have not been taken into account by both the authorities, viz., the District Magistrate, Purnea while deciding about the cancellation of the licence of the petitioner as well as the Commissioner, Purnea while hearing the appeal.

7. Section 17 of the Arms Act, 1959 (*in short the Act*) describes the condition under which a firearm licence could be varied, suspended or revoked. True it is that pendency of a criminal case is not the ground listed in Section 17 of the Act, nonetheless pendency of serious cases against a licence holder could be a ground for cancellation of licence, if it was found that it would be necessary for the security of the public peace or public safety to revoke the licence of such licence holder. There is no allegation against the petitioner of suppressing any information or of having bypassed any direction issued in that regard. The petitioner is also not alleged to have violated anyone of the terms of



the licence. It appears rather surprising, as to how the report of the Superintendent of Police was in juxtaposition to the report of the S.D.P.O, who has given a detailed report that in none of the cases, the petitioner was found to be involved.

8. It appears, therefore, that no meaningful consideration has been given to the show-cause reply of the petitioner by the District Magistrate, Purnea or the learned Commissioner while hearing the appeal. The Appellate order also does not appear to be justified/sustainable as the facts stated therein are not borne out by the records of the case.

9. As such, both the orders impugned, referred to above, are set-aside.

10. The case of the petitioner is remitted to the District Magistrate, Purnea for giving one hearing to the petitioner and then passing a reasoned order in accordance with law. It is directed that the petitioner would present himself along with a copy of this order along with his representation in that behalf before the District Magistrate, Purnea within a period of four weeks of the passing of the



order. On such representation being filed, the District Magistrate, Purnea, after calling for the records and giving hearing to the petitioner, shall pass a reasoned order in concordance with law within a period of eight weeks, to be counted from the date of presentation of the representation along with a copy of this order.

11. With the aforesaid observation and direction, the petition stands allowed.

12. The records, which have been called for by this Court, are directed to be returned to the concerned office.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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