

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7407 of 2017

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Punit Jain son of Shri Jitendra Kumar Jain resident of 302, Om Vihar Apartment, P.S. Kadamkuan, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Home Secretary, Government of Bihar, Patna
2. The District Magistrate, Patna.
3. The District Arms Magistrate, Patna.
4. The Additional District Magistrate (Arms), Patna.
5. The S.H.O., Kadam Kuan, P.S. Patna.
6. The S.H.O., Pirbahore P.S., Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satyabir Bharti
For the Respondent/s : Mr.Md. Nadeem Seraj- Gp5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 26-09-2019

1. The present writ petition has been filed by the petitioner for quashing the order dated 11.03.2017 passed by the District Magistrate, Patna, whereby and whereunder the arms licence of the petitioner herein, has been suspended on the ground that there is possibility of misuse of arms by the petitioner herein.

2. The admitted facts of the case, not disputed by the respondent-State, are that the petitioner had filed an F.I.R. bearing Pirbahore PS case no. 370 of 2012 dated 13.12.2012 under Sections 386, 307, 379/34 of Indian Penal Code and Section 27 of Arms Act against the accused persons alleging therein that they had fired on the premises of the shop of the petitioner, had engaged in extortion and



had also snatched chain and cash from the counter of the shop in question. Infact, the police has filed a charge sheet in the said case on 31.10.2016, wherein the aforesaid criminal case was found to be *prima facie* true against the accused persons, meaning thereby that the allegation levelled by the petitioner in the said F.I.R. was found to be *prima facie* true, after investigation had been conducted by the police. Infact, the respondents, in their counter affidavit, have annexed a letter written by the Inspector of Police-cum-Officer-in-charge, Pirbahore PS, Patna dated 30.09.2016, wherein it has been stated that the aforesaid criminal case bearing Pirbahore PS case no. 370 of 2012 dated 13.12.2012 has been found to be *prima facie* true against the FIR named accused persons and charge sheet has also been filed in the said case before the learned trial court. However, it appears that out of nowhere, one letter was written by the Sub-Inspector of Police, Pirbahore PS, Patna dated 14.10.2016, which has been annexed as Annexure-B to the counter affidavit, wherein it has been submitted before the District Arms Magistrate, Patna that the petitioner had made firing from his arms on 13.12.2012 to create terror pertaining to an incident arising out of the aforesaid criminal case, hence recommendation was made for suspending the licence of the petitioner.

3. This Court is of the opinion that the aforesaid letter dated 14.10.2016 has been got manufactured by the persons interested in getting the licence of the petitioner, suspended which is



manifest from the fact that firstly, the said letter has not been issued by the Inspector of Police-cum-Officer-in-Charge, Pirbahore PS, Patna and secondly, the said letter has been issued after a lapse of 14 years of the alleged incident, pertaining to which the police has already filed a charge sheet against the accused persons and in the said charge sheet, no whisper has been made about any complicity of the petitioner herein, of either engaging in firing upon the accused persons or engaging in firing for the purposes of creating terror, hence without any material, the aforesaid letter dated 14.10.2016 has been written by the Sub-Inspector of Police, Pirbahore PS, Patna, especially after the wife of the petitioner had approached this Court for grant of arms licence and this Court had deprecated the action of the District Magistrate, Patna for rejecting her application for grant of arms licence on the ground that her husband was possessing arms licence. Thus, the motive of the respondent- State authorities is writ large from the records and they have acted in a malafide manner, hence it is directed that the then Sub-Inspector of Police, Pirbahore PS, Patna be suspended immediately and appropriate disciplinary proceeding be initiated against him for writing a frivolous and a fraudulent letter without any basis or material on record and unnecessarily, getting the licence of the petitioner cancelled resulting in victimization of the petitioner. A report in this regard be submitted before this Court by the District Magistrate, Patna and the Sr. Superintendent of Police, Patna on or before 18.10.2019.



4. This Court further finds that similarly, the action of the District Magistrate, Patna by relying on such frivolous and fraudulent letter written by the Sub-Inspector of Police, Pirbahore PS, Patna dated 14.10.2016, also smacks-off non-application of mind to the extent that the impugned order in question *qua* the petitioner herein, is not only perverse but also depicts the imperceptive, obtuse and unintelligent mind of the District Magistrate, Patna in appreciating the correctness of the materials on record. Although, this Court is of the opinion that the District Magistrate, Patna is also required to be proceeded against for failure on his part to ably discharge the duties bestowed upon him on account of his apparent failure in appreciating the facts and circumstances of the present case leading to passing of a perverse order dated 11.03.2017, which is not only cantankerous but also capricious on the face of it, however this Court is restraining itself on account of the fact that he has acted on a frivolous and fraudulent report submitted by the Sub-Inspector of Police, Pirbahore, Patna dated 14.10.2016, which is not only contrary to the records but also contrary to the charge sheet filed in the aforesaid criminal case, wherein there is no whisper about any such incident of firing by the petitioner herein, pertaining to the aforesaid Pirbahore PS case no. 370 of 2012.

5. Having regard to the facts and circumstances of the case and having considered the submissions made by the learned counsel for the parties as also considering the materials on record,



this Court is of the view that the conclusion of the District Magistrate, Patna in the impugned order dated 11.03.2017, *qua* the petitioner herein to the effect that there is possibility of the petitioner misusing the arms in question in future is not only unfounded but also does not find support from the facts and circumstances of the present case specially on account of the fact that right from the date of filing of the FIR by the petitioner against the perpetrators of crime in the year 2012 till the passing of the impugned order dated 11.03.2017, the respondent- State authorities have failed to show any instance of misuse of arms by the petitioner herein, hence the order dated 11.03.2017 passed by the District Magistrate, Patna *qua* the petitioner herein, suspending his arms licence, is quashed.

6. The writ petition stands allowed. Let a copy of this judgment be transmitted to the District Magistrate, Patna and the Sr. Superintendent of Police, Patna for compliance forthwith.

7. List this case for “orders” on 18.10.2019.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.10.2019
Transmission Date	NA

