

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18090 of 2017

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Surabhi Deva, W/o Bharat Bhushan Deva, Resident of Village & P.O.-Ullao,
P.S. Sighaul, District-Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Divisional Commercial Munger Division, Munger.
3. The District Magistrate, Begusarai.
4. The Arms Magistrate, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Chitranjan Sinha, Sr. Advocate Mr. Nikhil Kumar Agrawal Mrs. Aditi Hansaria
For the Respondent/s	:	Mr. Shailesh Kumar, A.C. to -GP-5

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 09-01-2019 Heard the parties.

Following relief has been sought for in paragraph1(i), (ii) and (iii) of the present application on behalf of the petitioner:

“1(i) To issue an appropriate writ/order/direction in the nature of Certiorari quashing the Order bearing Memo No. 460 dated 28.09.2015 issued by the District Magistrate, Begusarai in so far as the same relates to cancellation of the arms license of the petitioner.

(ii) to issue an appropriate writ/order/direction in the nature of Certiorari quashing the Order dated 17.05.2017 passed by the Divisional Commissioner, Munger Division, Munger whereby the Arms Appeal No. 220/2015 filed by the petitioner against



the order dated 28.09.2015 passed by the District Magistrate, Begusarai has been rejected;

(iii) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the respondents to restore and renew the arms license of the petitioner bearing License No. 10/1992.”

In the present writ application, the petitioner owes and possesses a DBBL gun vide licence No. 10/1992 Begusarai P.S. issued on 31.12.1992 by the licensing authority. From time to time, the physical inspection of the arms had been conducted. The petitioner has been in possession of the arms in question since 1992. The licence was also renewed from time to time. The last renewal of the licence was made in the year 2014 for the period 2014-16. Vide Annexure-4 to the writ application, arms licence of 131 persons were cancelled including the petitioner on the ground that they did not produce the arms for physical verification in pursuance to the notice published in the newspaper. The defence taken by the petitioner is that at the relevant time, she was ill and was being treated at Varanasi. Hence, she was not aware of the public notice made in the newspaper. No individual notice was issued upon the petitioner. The ground for the cancellation of the licence is that the



physical verification of the arms in question was not made in pursuance to the said public notice.

On behalf of the petitioner, it is submitted that it is a *bona fide* mistake on the part of the petitioner as the petitioner had no knowledge regarding the said notice published in the newspaper. The petitioner is a law abiding citizen. As the petitioner came to know regarding cancellation of the licence, she immediately got the arms deposited with the registered dealer which is evident from Annexure-6 to the present application.

On behalf of the State, it is submitted that the petitioner did not comply with the statutory provision, hence, the licence of the petitioner has been cancelled.

Having heard the parties and taking into account that no individual notice was served upon the petitioner and the petitioner had no knowledge regarding the public notice in respect of the inspection of the arms as she was ill and was being treated at Varanasi. The moment she came to know regarding cancellation of the licence, she immediately deposited the same before the registered dealer vide Annexure-6 to the present application. The cancellation of licence simply on the ground that the public notice published in the newspaper has escaped the notice of the petitioner. Even in absence of any



other default, the reason for cancellation is found extremely harsh and accordingly cannot be upheld. The petitioner has further relied upon the order dated 29.03.2017 passed in C.W.J.C. No. 6950 of 2016 wherein similarly situated persons whose licences were cancelled were set aside by this Court.

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

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

(Sudhir Singh, J)

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