

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5042 of 2017

=====

Yogendra Sharma Son of Ramashish Sharma, R/o Village- Sharma, P.S.- Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commission, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, District- Jehanabad.
5. Superintendent of Police, Jehanabad, District- Jehanabad.
6. Station House Officer, Ghosi Police Station, District- Jehanabad.

... .. Respondent/s

=====

with
Civil Writ Jurisdiction Case No. 4556 of 2017

=====

1. Abhay Sharma and Ors Son of Binod Sharma, resident of Village- Pariyama, Police Station- Ghosi in the district of Jehanabad.
2. Ram Pravesh Sharma, Son of Late Mithila Singh, resident of Village- Waina, Police Station- Ghosi in the district of Jehanabad.
3. Ajit Kumar Sharma, Son of Late Ram Swaroop Singh, resident of Village- Chotaki Akauna, Police Station- Ghosi in the district of Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate-cum-Collector, Jehanabad.
5. The Inspector-cum-Officer-in-Charge, Ghosi Police Station in the district of Jehanabad.

... .. Respondent/s

=====

with
Civil Writ Jurisdiction Case No. 5246 of 2017

=====

Permanand Singh son of Late Shyam Narayan Singh, R/o Village- Bhakhra, P.S.- Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus



1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commission, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist- Jehanabad.
5. Superintendent of Police, Jehanabad, Dist- Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist- Jehanabad.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5369 of 2017

Prikshit Narayan Sharma Son of Late Parshuram Sharma, R/o Village- Korra,
P.S.- Ghosi, Distirct- Jahanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commission, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist.- Jehanabad.
5. Superintendent of Police, Jehanabad, Dist.- Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist.- Jehanabad.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5366 of 2017

Kamal Kishore Sharma Son of Sri Ram Chandra Sharma, R/o Village-
Bhakhra, P.S.- Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commissioner, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist.- Jehanabad.
5. Superintendent of Police, Jehanabad, Dist.- Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist.- Jehanabad.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5668 of 2017



=====

Nand Kishor Sharma Son of Sri Kedar Nath Sharma, R/o Village- Nagama,
P.S.- Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commissioner, Magadh Pramandal, Gaya.
4. Distirct Magistrate, Jehanabad, Dist.- Jehanabad.
5. Superintendent of Police, Jehanabad, Dist.- Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist.- Jehanabad.

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 6527 of 2017

=====

Lutan Sharma Son of Dwarika Singh, R/o Village- Daidih, P.S.- Ghosi,
District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commissioner, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist- Jehanabad.
5. Superintendent of Police, Jehanabad, Dist- Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist- Jehanabad.

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 6419 of 2017

=====

Akhilesh Sharma son of Jagdish Sharma, R/o Village- Prawab, P.S.- Ghosi,
District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. Commissioner, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist- Jehanabad.
5. Superintendent of Police, Jehanabad, Dist- Jehanabad.



6. Station House Officer, Ghosi Police Station, Dist- Jehanabad.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3132 of 2017

Chandra Shekhar Sharma Son of Late Baliram Sharma, Resident of Village Bishunpur, P.S. Ghoshi, District Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Jehanabad.
4. The Superintendent of Police Jehanabad.
5. The Arms Magistrate, District Jehanabad.
6. The Officer-in-Charge, Goshi Police Station Ghoshi, District Jehanabad.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5388 of 2017

Ramashray Sharma Son of Sri Shyam Singh, R/o Village- Bhakhra, P.S.- Ghosi, District-Jehanabad,

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chief Secretary, Government of Bihar, Patna.
3. Commissioner Magadh Pramandal, Gaya.
4. The District magistrate, Jehanabad, Dist.-Jehanabad.
5. Superintendent of Police, Jehanabad. Dist.-Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist-Jehanabad null null

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5313 of 2017

Kumar Bachan Singh son of Sri Narsingh Singh R/o Village - Bharthu, P.S. - Ghosi, District - Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors



2. The Chief Secretary, Government of Bihar, Patna.
3. Commission, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist. - Jehanabad.
5. Superintendent of Police, Jehanabad, Dist. - Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist - Jehanabad.

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 5378 of 2017

=====

Ramashray Sharma Son of Late Muneshwar Sharma, R/o Village-Dady, P.S.-
Ghosi, District-Jehanabad,

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chief Secretary, Government of Bihar, patna.
3. Commission, Magadh Pramandal, Gaya.
4. The District magistrate, Jehanabad, Dist.-Jehanabad.
5. Superintendent of Police, Jehanabad. Dist.-Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist-Jehanabad

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 5588 of 2017

=====

Mukesh Sharma Son of Sri Bameshwar Sharma R/o Village-Golakpur
Dehuni, P.S.-Ghosi, District-Jehanabad,

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chief Secretary, Government of Bihar, Patna.
3. Commission, Magadh Pramandal, Gaya.
4. District Magistrate, Jehanabad, Dist.-Jehanabad.
5. Superintendent of Police, Jehanabad. Dist.-Jehanabad.
6. Station House Officer, Ghosi Police Station, Dist-Jehanabad

... .. Respondent/s

=====

Appearance :

(In Civil Writ Jurisdiction Case No. 5042 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : A.C. to G.P.-5



(In Civil Writ Jurisdiction Case No. 4556 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : A.C. to G.P.-5

(In Civil Writ Jurisdiction Case No. 5246 of 2017)

For the Petitioner/s : Mr.Arvind Kumar Sharma, Advocate

For the Respondent/s : AC to G.P.-5

(In Civil Writ Jurisdiction Case No. 5369 of 2017)

For the Petitioner/s : Mr.Arvind Kumar Sharma, Advocate

For the Respondent/s : Mr.Mankeshwar Tiwari, AC to AAG-3

(In Civil Writ Jurisdiction Case No. 5366 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : AC to SC-01

(In Civil Writ Jurisdiction Case No. 5668 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : Mr.Manish Kumar-Gp4

(In Civil Writ Jurisdiction Case No. 6527 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : Mr.Sanjay Kumar, AC to SC-8

(In Civil Writ Jurisdiction Case No. 6419 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : A.C. to G.P.-5

(In Civil Writ Jurisdiction Case No. 3132 of 2017)

For the Petitioner/s : Mr.Rabindra Kumar Priyadarshi, Advocate

For the Respondent/s : Mr. Ravi Verma- AC to GA-4

(In Civil Writ Jurisdiction Case No. 5388 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate.

For the Respondent/s : Mr. Sanjay Kumar, AC to SC-8

(In Civil Writ Jurisdiction Case No. 5313 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : Mr.Manish Kumar- Gp4

(In Civil Writ Jurisdiction Case No. 5378 of 2017)

For the Petitioner/s : Mr. Dinu Kumar, Advocate

For the Respondent/s : A.C. to G.P.-5

(In Civil Writ Jurisdiction Case No. 5588 of 2017)

For the Petitioner/s : Mr.Arvind Kumar Sharma

For the Respondent/s : Mr.Sheo Shankar Pd.-Sc8

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 19-04-2019 1. Heard learned counsel for the petitioner and
counsel for the State.

2. The grievance of the petitioner in the bunch of the writ petitions is that the respondents authority in the name of verification of Arms have completed eye wash by publishing notice in the Newspaper for Arms verification of License Arms holder and those who failed to produce their Arms for



verification their licence has been cancelled.

3. Learned counsel for the petitioners would submit that the notice claimed by way of published in newspaper does not satisfy the requirements of real notice. In the matter of cancellation of license in addition thereto to effective personal notice is required. Mr. Dinu Kumarl also highlighted the non-application of mind in the decision making. Referring to the case of several petitioners, Mr. Dinu Kumar, learned counsel appearing on behalf of the petitioners submits that seven persons' licence was cancelled even after the verification of the Arms within time. He submits that the respondents have taken decision in their cases on the premise that they have failed to produce their gun for verification and as such their gun license was accordingly cancelled. Such action of the respondents show total non-application of mind and as such order passed by the respondents deserve to be set aside.

4. Considering the aforesaid, the writ petition pertaining to these seven petitioners i.e. CWJC No. 5042 of 2017, CWJC No. 5313 of 2017, CWJC No. 5378 of 2017, CWJC No. 5668 of 2017, CWJC No. 6419 of 2017, CWJC No. 6229 of 2017 and CWJC No. 4556 of 2017, are allowed. The order of cancelling the gun license on the ground of non-



production of Arms for verification of license within the time suffers from the vice of total non-application of mind and as such the order cancelling the gun license stands quashed. Respondents are directed to restore their gun license after completion of one month of General Election 2019.

5. So far as other writ petitioners are concerned, on perusal of the material available on the record it manifests that the writ petitioners have not been personally noticed rather through publication of notice in newspaper. The respondents claim compliance of notice for cancellation of Arms licence. Notice in the Newspaper does not satisfy the requirements as action of cancellation of licence is grave action and as such strict compliance of notice is required. After giving personal notice to the license holder and after giving opportunity of hearing to the concerned licensee, respondents were required to take appropriate decision cancelling license. The manner, decision was taken by the respondents indicates total non-application of mind and as such it suffers from the vice of subjectivity and arbitrariness. Accordingly, the writ applications challenging the cancellation of the gun license are allowed. All the orders passed by the licensing authority cancelling the gun license stand quashed. Since the order of the appellate authority



suffers from same vice as the appellate authority has perpetuated illegality committed by the licensing authority, the appellate order is also quashed.

6. In the result, all the writ petitions are allowed, respondents are directed to restore their gun license after one month of the General Election, 2019. However, restoration of license will not disentitle the District administration/licensing authority to take appropriate decision in the appropriate cases where there is allegation of abuse of Arms license to take fresh decision in accordance with law.

7. With the aforesaid, the present writ petitions stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

U			
---	--	--	--

