

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20008 of 2013

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Barmeshwar Rai Son of Late Barma Nand Rai Resident Of Village Umarpur
Dhum Rai Ke Pura P.S. Buxar Industrial District Buxar at Present Residing at
Maharaja Hata Ara, District Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner Patna
3. The District Magistrate Buxar at Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anant Kumar Bhaskar Mr. S.K. Jha
For the State	:	Mr. Madhaw Pd. Yadav, G.P.-23 Mr. Rajesh Kumar Sinha, AC to G.P.-23

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 12.07.2019

The present writ petition has been filed for quashing the order dated 10.01.2013/22.02.2013 passed in Arms Appeal No. 26 of 2005 by the learned Commissioner, Patna Division at Patna affirming the order of the learned District Magistrate, Buxar dated 17.08.2004 passed in Arms Case No. 4 of 2001, cancelling the arms license of the petitioner herein.

The brief facts of the case are that a case bearing Case No. 4 of 2001 was initiated upon a report forwarded by the Superintendent of Police, Buxar who had forwarded the report of the Inspector of Police, Buxar (Industrial), wherein it has been stated that since the petitioner has been made an accused



in Buxar (Industrial) P.S. Case No. 174 of 1999 under Sections 341, 324 and 307 of the Indian Penal Code and Section 27 of the Arms Act, it is expedient that the arms license of the petitioner be cancelled.

The learned District Magistrate, Buxar had initiated the aforesaid Case No. 4 of 2001 on 08.08.2001 but despite several efforts made, the petitioner failed to appear before the District Magistrate, hence it was presumed that since the petitioner has not appeared in the said case, he has nothing to say, thus by an order passed by the District Magistrate, Buxar dated 17.08.2004, the arms license of the petitioner was cancelled on account of him using the arms for committing crime and endangering the life and security of the common people. It appears that the petitioner had then filed an appeal before the learned Collector, Patna Division, Patna bearing Arms Appeal Case No. 26 of 2005, however, the same was dismissed by the impugned order dated 10.01.2013/22.02.2013 on the ground that three criminal cases were pending against the petitioner, out of which he had been acquitted only in one and reliance was placed on a judgment reported in *1985 Criminal Law Journal 1601 (Shesh Nath Singh vs. The State of Bihar)*, wherein it has been held that when a criminal case is



pending against the licensee, the authorities can cancel the license without waiting for the judgment of conviction.

The learned counsel for the petitioner has urged that no notice was given to the petitioner before cancellation of his arms license by the District Magistrate, Buxar. It is further contended that on account of enmity between the petitioner and one Bhola Nath Rai, not only a Title Suit is pending amongst them but on account of the said dispute a criminal case bearing Simari P.S. Case No. 65 of 1997 dated 13.06.1997 has been registered against the said Bhola Nath Rai and the said Bhola Nath Rai has lodged one of the criminal case bearing Buxar Industrial P.S. Case No. 40 of 1998 with vengeance. It is further submitted that the Buxar Industrial P.S. Case No. 157 of 1991 was lodged against the petitioner prior to the issuance of the arms license in question, hence the same is of no value and cannot be used as a pretext to cancel the arms license of the petitioner. Similarly, the other case bearing Buxar Industrial P.S. Case No. 41 of 1992 has also been registered prior to issuance of license to the petitioner in the year 1993. Lastly, it is submitted that the petitioner has been acquitted in the aforesaid Buxar Industrial P.S. Case No. 40 of 1998 and the trial of Buxar Industrial P.S. Case No. 174 of 1999 is still going on. Hence, it



is submitted that since the petitioner has been acquitted in one of the criminal case lodged against him in the year 1998, while the other two cases pertain to a period prior to grant of arms license to the petitioner herein, as such the same cannot be made a pretext to cancel the arms license of the petitioner, thus the impugned order deserves to be set aside, being patently illegal.

Per contra, the learned counsel for the respondents has submitted that if it is true that the aforesaid two cases bearing Buxar Industrial P.S. Case No. 157 of 1991 and Buxar Industrial P.S. Case No. 41 of 1992 have been lodged against the petitioner prior to grant of the license, then it is all the more necessary to cancel the license of the petitioner on the ground of non disclosure of such criminal cases. It is further submitted that another criminal case bearing Buxar Muffasil P.S. Case No. 174 of 1999 dated 22.11.1999 has been registered against the petitioner under Sections 341, 324, 307/34 of the Indian Penal Code and Section 27 of the Arms Act wherein allegation has been levelled on the petitioner of having fired from his licensee rifle, hence apparently as many as three cases are pending against the petitioner, thus the arms license of the petitioner has been rightly cancelled.

I have heard the learned counsel for the parties and I



find that prior to issuance of the arms license to the petitioner in the year 1993, two criminal cases, as aforesaid, were pending but it appears that the petitioner had failed to disclose them, otherwise, the arms license would not have been granted to the petitioner herein, hence the arms lincense of the petitioner was/is liable to be cancelled on account of suppression of material information, as provided under Section 17(c) of the Arms Act, 1959. This Court further finds that though the petitioner has been acquitted in one criminal case but three criminal cases are still pending against the petitioner herein wherein serious allegations have been levelled against the petitioner and grant of license to such a person may result in the life and security of the common people being endangered. Hence, this Court does not find any infirmity in the impugned order dated 10.01.2013/22.02.2013, passed in Arms Appeal No. 26 of 2005, by the learned Commissioner, Patna Division, Patna, thus the writ petition stands dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

S.Sb/-

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