

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6399 of 2017

1. Maksudan Sharma, Son of late Janardan Sharma
2. Hari Mohan Sharma, Son of Haridwar Singh
3. Ramanuj Sharma, Son of late Chandra Singh
All Resident of Village- Dhuriari, P.S. Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Bihar
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Jehanabad.
4. The Superintendent of Police, Jehanabad.
5. The Sub Divisional Magistrate, Jehanabad.
6. The Officer in charge, Ghosi Police Station, Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vivek Anand Amritesh, Advocate
For the Respondent/s : Mr. Sheoshankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 08-05-2019 Heard learned counsel for the petitioners and the State.

2. The petitioners are aggrieved by the order dated 09.09.2015 as contained in Annexure-11 and the appellate order dated 11.01.2017 as contained in Annexure-12.

3. The arms license of 47 licensee including petitioners was cancelled by the District Magistrate by one stroke of pen in the backdrop of letter of the Additional Chief Election Commissioner, Bihar, Patna dated 17.06.2015 addressed to the District Magistrate for verification of arms



license in order to ensure peaceful and impartial election of Assembly. It appears that pursuant to letter dated 17.06.2015, the District Magistrate, Jehanabad has published notice in two newspapers, namely, Hindustan and Prabhat Khabar on 26.06.2015 and 27.06.2015 for physical verification of the arms from 01.07.2015 to 05.07.2015. Again on 08.08.2015 notice was published for verification of arms in three newspapers, namely, Hindustan, Prabhat Khabar and Dainik Jagaran from 10.08.2015 to 14.08.2015, but 47 arms licensee failed to produce their arms for physical verification and on account of their failure to submit arms for physical verification, the District Magistrate has passed the order cancelling the arms license.

4. There is no allegation that any of the arms licensee misused the privilege of arms licence and there is also no case that any of the arms licensee are accused or convict in criminal case.

5. The Appellate Authority while exercising the statutory appeal has rejected the appeal holding that the decision of the District Magistrate is correct and does not warrant any interference. The District Magistrate while exercising the jurisdiction of quasi judicial was required to follow the principles of natural justice. It is true that principles of natural



justice is not a straight jacket formula, but the order visiting the evil and civil consequence require strict compliance of principles of natural justice.

6. There are catena of judgment of the Apex Court on that line. For ready reference the case of **H.L. Trehan & Ors. Vs. The Union of India & Ors**, reported in **1989 AIR 568** is referred to here for the purpose of application of natural justice in the decision making process.

7. It is also settled principles of law that when the consequence is grave strict compliance of principles of natural justice applies. Cancellation of gun license has grave consequence and as such it cannot be lightly taken, the manner in which the quasi judicial authority, namely, the District Magistrate, Jehanabad has passed the order. The Court is also constrained to hold that exercise of power by the District Magistrate is not in consonance with Article 14 of the Constitution of India and Section 17 of the Arms Act. Ex-facie the decision of cancellation of Arms License of 47 licensee by one stroke of pen falls in the category of arbitrary exercise of power and such order cannot sustain.

8. Since the Commissioner of the Division while exercising power of appellate authority has perpetuated the



same illegality, the order of the Commissioner in appeal suffers from the same vice. Accordingly, it is also quashed.

9. In the result, Annexures- 11 and 12 are hereby quashed. The petitioners are entitled to restoration of their arms licences, but the restoration is available only after the general election. However, quashing of Annexures-11 and 12 will not in any manner disentitle the competent authority to take action against any of the arms licensee, who has misused the privilege of arms license after following the principles of natural justice and procedure laid down in the Arms Act.

10. In the result, the writ application is allowed.

(Anil Kumar Upadhyay, J)

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