

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.24870 of 2013**

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Rajeshwar Kumar Singh Son Of Late Sheo Balak Singh Resident Of Village-  
Bhadwar, P.O.- Bhadwar, P.S. Chandi District -Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Bhojpur At Ara.
4. The District Magistrate, Bhagalpur.
5. The District Magistrate, Patna.
6. The District Magistrate, Nalanda At Biharsharif.
7. The District Magistrate, Begusarai.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Rajeev Kumar Verma, Sr. Advocate.<br>Mr.Karuna Nath Sahay, Advocate |
| For the Respondent/s | : | Mr.Anirban Kundu SC 24                                                  |

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL ORDER**

5      24-04-2019                      1. Heard learned counsel for the petitioner and  
counsel appearing on behalf of the State.

2. The instant writ petition has a exchequered history.  
Petitioner was granted Arms licence by the District Magistrate,  
Bhagalpur, subsequently he was transferred to different places.  
In teeth of the provisions of the Arms Act, the authorities  
granted renewal at the transfer places, although the District  
Magistrate other than licensing authority were not authorized to  
grant renewal. This renewal business continued upto 2003. The  
District Magistrate, Bhojpur refused renewal saying that Arms



licence of the petitioner was cancelled by the District Magistrate, Bhagalpur on 22.7.1979. In the peculiar circumstances on account of cancellation of gun licence by the licensing authority and renewal of the gun licence not by the licensing authority but the Arms Magistrate/ District Magistrate at different District Magistrate including District Magistrate Bhojpur at Ara and District Magistrate, Begusarai. Petitioner has earlier approached this Court in CWJC No. 7893 of 2006 and the same was disposed vide order dated 28.4.2011.

3. The petitioner has filed contempt application against the non-compliance of the order dated 28.4.2011. The Court vide order dated 30.11.2011 disposed of the contempt application. Now the petitioner has filed the writ application for challenging the order dated 22.7.1979 on the ground that he has not received notice and without hearing the petitioner the order dated 22.7.1979 was passed and even that order was never communicated to him.

4. The Court is of the view that the licensing authority of the petitioner was District Magistrate, Bhagalpur and the District Magistrate, Bhojpur has absolutely no jurisdiction to pass any order regarding renewal, it was utmost recommended the renewal to the licensing authority.



5. So far as the contention of the learned senior counsel Mr. Rajiv Verma is concerned, he stated that cancelling of Arms licence cannot be passed by the licensing authority without compliance of the provisions of principles of natural justice is well founded. If the petitioner was not heard before passing the order involving grave consequence the order is bad. It is now well settled principles of natural justice that no order visiting evil and civil consequences can be passed without providing reasonable opportunity of being heard. The Court finds substance in the submission of Mr. Rajiv Verma but the contention that the petitioner was never communicated the order will not affect the order dated 22.7.1979. The petitioner is required to challenge wrong order is also capable of consequences. Since the order of cancellation was passed by the District Magistrate, Bagalpur way back on 22.07.1979 and we are in 2019 i.e. four decades, instead of entering into the controversy whether opportunity of hearing was provided to the petitioner and whether the order was communicated to this petitioner or not? The Court deem it fit and appropriate to strike a balance of conflicting interest the petitioner may file fresh application for grant of license afresh and the licensing authority is required to take appropriate decision for grant of Arms license



to the petitioner. In the decision making process the Collector is required to examine whether the petitioner has any criminal antecedent and whether the petitioner has ever misused the privilege of license granted earlier or not? If the District Magistrate, is satisfied that there is no criminal case pending against the petitioner and petitioner has never misused the privilege of license, he shall take appropriate decision in favour of the petitioner granting Arms licence, within a maximum period of 30 days from the date after completion of General Election 2019.

6. With the aforesaid, the instant writ petition stands disposed of.

**(Anil Kumar Upadhyay, J)**

T.Kr./-

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