

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1909 of 2023

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Bimlesh Kumar @ Bimlesh Kumar Upadhyay S/o Late Ramashankar
Upadhyay, R/o Village - Mahmudpur, P.S. - Andar, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Saran Division, Saran (Chapra).
3. The District Magistrate cum Arms Magistrate Siwan, District - Siwan.
4. The Superintendent of Police, Siwan, District - Siwan.
5. The Dy S.P. Siwan, District - Siwan.
6. The Officer In Charge Andar P.S., Dist. - Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Murari Mishra, Advocate
For the Respondent/s : Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 03-12-2024

The present writ petition has been filed for setting aside the order dated 05.03.2022, passed by the Arms Magistrate, Siwan whereby and whereunder the arms licence of the petitioner has been cancelled on account of the petitioner having failed to appear before the concerned authority for physical verification of his arms. The petitioner has further sought for quashing of the order dated 01.11.2022, passed by the learned Commissioner, Saran Division, Saran in Arms Appeal Case No.54 of 2022.



2. The learned counsel for the petitioner submits that no notice was personally served upon the petitioner for the purposes of physical verification of his arms and the impugned order dated 05.03.2022 would bear it out that notices merely were issued in the local newspaper. It is further submitted that since the petitioner was employed in State Disaster Response Force and was posted at Bihta at the relevant time, he could not come to know about the said newspaper notice. It is also submitted that the son of the petitioner was killed by criminals and thereafter, the accused persons have also been convicted, hence the petitioner is having reasonable threat perception, thus he is in dire need of arms for his defence as also for protection of his life and property. It is next submitted that no opportunity has been granted to the petitioner prior to cancellation of his arms licence, hence the principle of natural justice has been violated, thus the impugned orders be quashed and the matter be remanded back to the District Magistrate, Siwan for fresh consideration.

3. *Per contra*, the learned counsel for the respondent has submitted that since the petitioner had changed the place of his residence to Bihta, notice could not be served upon him,



however, in case this Court so directs, the District Magistrate, Siwan would definitely consider the case of the petitioner, afresh.

4. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that admittedly, no notice was served upon the petitioner prior to cancellation of his arms licence, by an order dated 05.03.2022, passed by the District Magistrate, Siwan, hence the principles of natural justice have admittedly been violated, thus the order dated 05.03.2022, passed by the District Magistrate, Siwan is set aside. Consequently, the appellate order dated 01.11.2022 passed in Arms Appeal Case No.54 of 2022 by the respondent no.2, has got no legs to stand, hence is also quashed. Resultantly, the matter stands remanded back to the Arms Magistrate/District Magistrate, Siwan, who shall consider the matter afresh, after obtaining the show-cause reply from the petitioner.

5. It is needless to state that in order to facilitate quick disposal of the case of the petitioner, I deem it fit and proper to grant liberty to the petitioner to file his objections/show-cause reply before the Arms Magistrate/District Magistrate, Siwan, within a period of



four weeks from today, which shall be considered by the said authority, in accordance with law and a reasoned and a speaking order shall be passed thereon, within a period of six weeks, thereafter.

6. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2024
Transmission Date	

