

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4142 of 2024

Mukesh Sharma Son of Bameshwar Sharma, Resident of Village Dehuni, P.S. Ghoshi District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Patna.
2. The Collector cum District Magistrate, Jehanabad.
3. The Superintendent of Police, Jehanabad.
4. The Station House Officer, Ghoshi, District- Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar, Advocate Mr. Ajay Kumar, Advocate Mr. Sahajanand Sharma, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh GA 2 Mr. Venkatesh Kirti, AC to GA 2

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 08-04-2024 Heard the learned counsel for the petitioner and learned counsel for the State.

2. The petitioner has challenged the order dated 25.08.2022 passed by the District Magistrate, Jehanabad by which the District Magistrate has refused to restore the arms license which was granted to the petitioner earlier till the acquittal of the petitioner in Ghosi P.S. Case No. 101 of 2017.

3. Learned counsel for the petitioner submits that the Licensing Authority had earlier issued arms license to the Petitioner *vide* Arms License No. 460/485/2004 in the year 2004 and from time to time, he renewed the license as contained in Annexure 1 to the Petition. He was granted the arms license by

the authority considering the threat to life and properties after due verification by the local police and the then S.P., Jehanabad.

5. Ghosi P.S. Case No. 169 of 2014 was filed against the petitioner in which the petitioner has been acquitted after compromise between the prosecution and the accused.

6. On the basis of the Ghosi P.S. Case No. 169 of 2014 the authority concerned cancelled the arms license of the Petitioner in an arbitrary and mechanical manner though there was a report by the Reserve Inspector, Jehanabad who clearly stated that in enquiry it was found that no firing was made from the rifle.

7. The Petitioner challenged the order of cancellation vide C.W.J.C No. 11414 of 2015 which was allowed and the order of cancellation was quashed. The matter was remanded back to the licensing authority for fresh consideration in accordance with law after granting reasonable opportunity to the Petitioner expeditiously preferably within a period of 3 months from the date of receipt/production of this order.

8. Again the District Magistrate-cum-Licensing Authority, the Respondent No.2 rejected the claim of the Petitioner on 26.07.2016 narrating therein that till acquittal of the Petitioner by a competent Court his license cannot be

renewed.

9. The Petitioner again challenged the said order *vide* C.W.J.C. No. 17787 of 2016 which was heard and disposed of stating therein that "if the authorities has noted that arms was not used and all the cartridges are still intact, the Court in the facts and circumstances of the case is constrained to quash the order and directs the Collector, Jehanabad to take fresh decision in the light of report contained in Annexure-10 as well as the judgment of the Division Bench reported in 2019(1) 664 within four months from the date of receipt/production of a copy of this order."

10. Thereafter, on 28.08.2022, the application of the petitioner was again rejected which is the impugned order. It has been submitted by the petitioner that the order contained in Annexure-8 shows complete non-application of mind. It has been passed in a routine and mechanical manner. The Respondent No.2 didn't bother to look into the facts of the case bearing Ghoshi P.S. Case No. 101 2017 about firing of bullets from licensee rifle by the Petitioner. It was improbable and impossible for him to open fire with his licensed rifle as the same was seized on 05.06.2015 in connection with Ghoshi P.S. Case No. 169 of 2014 which is still in custody with the

concerned authority.

11. Moreover a false F.I.R. was lodged on 06.05.2017 as contained in Annexure-10 as the same was only a counter blast to the case bearing Ghosi P.S. Case No. 100 of 2017 lodged by the brother of the Petitioner. They are having a land dispute and the case was lodged on account of dirty village politics.

12. After going through the materials on record the Learned Chief Judicial Magistrate, Jehanbad didn't take cognizance under Section-27 of the Arms Act against the petitioner which clearly shows that the petitioner was falsely implicated in the case under the Arms Act in Ghosi P.S. Case No. 101 of 2017.

13. From the order impugned it will appear that the application for restoration of the license of the petitioner has been rejected only due to the pendency of Ghosi P.S. Case No. 101 of 2017 in which cognizance has been taken under sections 341, 447, 307, 323, 504 and 34 of the I.P.C and not under Arms Act.

14. The weapon is already lying surrendered after suspension of the arms license in 2014 and moreover the police has not found any use of fire arm and therefore no charge-sheet

was submitted under arms act by the police. In view of the above the petitioner cannot be denied his arms license. This matter has been remitted back to the Collector, Jehanabad a number of times but it has resulted only in dismissal of the application of the petitioner on flimsy grounds.

15. In these circumstances, the direction of remand will not serve the ends of justice.

16. Considering the facts of the case and considering the fact that no case for misuse of the arms is pending in the Court of law against the petitioner the application of the petitioner for restoration of the arms license is allowed. The Arms License No. 460/485/2004 is restored

17. This application is allowed.

(Sandeep Kumar, J)

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