

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15123 of 2022

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Md. Haji Ashfaq @ Wasim Raja @ Mohammad Wasim Raza @ Md. Ashfaq Son of Late Sadre Alam, Resident of Purani Bazar, Ward No.-4, Main Road, P.S.-Madhepura, District-Madhepura-Pin-852113

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna.
2. The Divisional Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Madhepura.
4. The District Arms Magistrate, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.A. Shamsi Mr. Rashid Rais
For the Respondent/s	:	Mr. Md. N.H. Khan (SC 1) Mr. Babita Kumari, AC to SC 1 Mr. Md. H. Quareshi.

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 03-01-2024 Heard the parties.

2. By way of this writ petition, the petitioner has prayed for the following relief:-

i). For quashing the order dt. 30-07-2022 passed by Commissioner, Koshi Division, Saharsa in Arms Appeal Case No. 75 of 2019 by which the Commissioner has rejected the appeal filed by the petitioner in a very casual and technical manner without application of judicial mind.

ii). For quashing the order dated 01-10-2019 passed in Arms Cancellation Case No. 01/2010 wherein the case year 2010 was wrongly typed and the same was corrected as 2018



vide letter dated 12-10-2019 of District Magistrate, Madhepura communicated to the petitioner, whereby and whereunder all the three licenses of petitioner have been cancelled on the ground that petitioner and his son have misused the arms and violated the rules 32(2), (3) & (4) of Arms Act (Amendment Rules, 2016).

iii) Seeking a direction to the respondents to release all the three Arms License i.e. (1) License No.- 4/Year 1996 of S.B.B.L. Gun, Licence No.- 10/2005 N. P. bore Pistol and the Licence No.- 12/2013 N.P. bore Rifle, and also to release the Arms deposited by the petitioner in Madhepura Police Station, as the petitioner was holder of Arms License since 1996 and from time to time has verified his arms license and never violated the condition of license as prescribed under Section 17 of the Arms Act, 1959 and under the prescribed Rules.

3. It has been submitted by the learned counsel for the petitioner that the petitioner is a social worker who is working for the welfare of the educational and social institution and he is also the secretary of Madarsa Islamia which is a Government School at Madhepura and also a member of the red cross society as well as Chirman of J.D.U. Bunkar, Prakostha, Madhepura and for the possible danger to his life and property



he was granted license of three arms in the year 1996, 2005 and 2013.

4. It has further been submitted by the learned counsel for the petitioner that it is the petitioner's son who is involved in illegal activities with some anti-social elements of the locality and he has also married against the wish of the petitioner and there are several FIRs lodged against the petitioner's son and the SHO, Madhepura Police Station through his letter dated 18.05.2018 to the District Magistrate, Madhepura through the Superintendent of Police, Madhepura has alleged that the son of the petitioner has publicly demonstrated the arms and therefore the license of the petitioner is liable to be cancelled and without any further investigation the Superintendent of Police, Madhepura has recommended for cancellation of the arms license of the petitioner.

5. It has further been submitted by the learned counsel for the petitioner that the petitioner has no relation with his son and he has ousted him from his property and house and because of the same the petitioner's son came to his house and misbehaved with his family members and also fired in air to threaten the petitioner and for the same the petitioner has lodged an FIR against his son.



6. It has further been submitted by the learned counsel for the petitioner that Arms License Cancellation Case No. 01 of 2018 was initiated against the petitioner and the petitioner was asked to file his show cause and upon filing of his show cause the petitioner, without given any opportunity of hearing his arms licenses have been cancelled and he was directed to deposit the arms in the Madhepura Police Station and complying with the same, the petitioner deposited all his three licensed arms.

7. It has further been submitted by the learned counsel for the petitioner that there is no proof of misusing of licensed arms issued in the name of the petitioner and also there is no violation of the Arms Rules, 2016 by the petitioner and the allegation of use of licensed arms by the son of the petitioner is baseless and there is no evidence or complain against the petitioner for having misused his licensed arms and being aggrieved from the order of the District Magistrate the petitioner preferred an Appeal before the Commissioner, Koshi Division, Saharsa but the Commissioner has refused to interfere with the impugned order and affirmed the order of the District Magistrate without considering the relevant documents produced by the petitioner and therefore the impugned order and the appellate



order may be quashed.

8. The State has filed its counter affidavit and supported the cancellation order of the arms license by the District Magistrate and also the order of the Commissioner by which the same has been affirmed.

9. From Annexure VII, which is a report of the Officer Incharge of Madhepura Police Station, it appears that the son of the petitioner has fired upon the petitioner and he is a known criminal of the area. The petitioner has threat from his son who is also accused in seven more cases. The Officer Incharge of Madhepura Police Station has also reported that the petitioner has ousted his son from his house and has not given his son any share in his property.

10. From the report of the Officer Incharge, Madhepura Police Station it also appears that the petitioner is himself a victim at the hands of his son and just because the son is engaged in the criminal activities including brandishing of illegal weapons/arms his arms license was cancelled by the District Magistrate and the same has been affirmed by the Commissioner.

11. Both the impugned order and the appellate order i.e. the order of the District Magistrate, Madhepura dated



01.10.2019 passed in Arms Cancellation Case No. 01 of 2018 and the order of the Commissioner, Koshi Division, Saharsa dated 30.07.2022 passed in Arms Appeal Case No. 75 of 2019 are passed without considering the report of the Officer Incharge of Madhepura Police Station which is in support of the petitioner.

12. Considering the aforesaid facts, I am of the view that impugned order and the appellate order cannot be sustained.

13. Accordingly, the order of the District Magistrate, Madhepura dated 01.10.2019 passed in Arms Cancellation Case No. 01 of 2018 and the order of the Commissioner, Koshi Division, Saharsa dated 30.07.2022 passed in Arms Appeal Case No. 75 of 2019 are hereby quashed and as the cancellation orders are set aside, the arms licenses of the petitioner are hereby restored.

14. With the aforesaid directions, this application stands allowed.

(Sandeep Kumar, J)

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