

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1417 of 2023

In
Civil Writ Jurisdiction Case No.9580 of 2022

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Md. Kaiser Warsi S/o Md. Kasim Siddique, Resident of Village-Bhanda, P.O.-
Routa, P.S.-Sour Bazaar, District-Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar.
2. Divisional Commissioner Koshi Division, Saharsa.
3. Superintendent of Police, Saharsa.
4. Additional District Magistrate, (Arms) Saharsa.
5. District Arms Magistrate, Saharsa.
6. S.H.O. Sour Bazar Police Station, District-Saharsa.
7. The District Magistrate, Saharsa.

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms .Manisha Pandey, Adv.

For the Respondent/s : Mr. P.K. Verma, AAG -3

Mr. S.K. Ghosarvey, AC to AAG -3

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 12-05-2025

Re: I.A. No. 01/2025.

The aforementioned interlocutory application has been pressed for condoning the delay of two months and three days in filing the present appeal.

2. For the reasons stated in the application, the delay of two months and three days in filing this appeal, is condoned.



3. I.A. No. 01/2025 stands allowed.

LPA No. 1417 of 2023

4. The judgment under challenge in the present appeal has been passed on 05.09.2023 in CWJC No. 9580 of 2022, whereby the orders passed by the District Magistrate, Saharsa dated 05.08.2021, cancelling the license of the appellant/writ petitioner and the appellate order of the Commissioner dated 03.06.2022 have been sustained as valid orders.

5. The appellant / writ petitioner is a holder of arms license.

6. On 19.03.2021, he was served with a notice by the District Magistrate, Saharsa asking him to explain within 24 hours as to the number of cartridges purchased and spent for a period of 15 years ranging from 2005 to 2020. It appears from the notice that in the official records, evidence was available of purchase of 1350 cartridges, the last of the purchases having been made on 25.12.2020.



7. Pursuant to the aforementioned notice, the appellant /writ petitioner replied that over a period of 15 years, the cartridges have been spent on special days as also for checking up the fitness of the weapon and he is in possession of 48 cartridges as on that date.

8. Thereafter, the District Magistrate, Saharsa vide his order dated 05.08.2021, assuming that the writ petitioner has violated the condition of not indulging in celebratory firing, cancelled the license of the petitioner, which order was sustained by the appellate authority and both the orders were validated by the learned Single Judge.

9. The reasoning adopted by the learned Single Judge in upholding the orders referred to above is that even though proscription on celebratory firing was incorporated in the Arms Act only in the year 2019 but then, an additional condition in the Arms Rules, namely, Sub-Clauses -7, 8 and 9 of Arms Rules of 2016, having been violated, the holder of license lost his right for



holding such fire-arm and the District Magistrate, Saharsa was perfectly within his rights to cancel his license under Section 17 of the Arms Act.

10. We are not in agreement with the aforementioned logic and reason provided by the learned Single Judge.

11. Section 17 provides the power to the Licensing Authority to vary the conditions subject to which the license has been granted, except such of them as has been prescribed and may for that purpose require the license holder by a notice in writing to deliver up the license to it within such time as may be specified in the notice. A Licensing Authority may, by order in writing suspend a license for any such period which he thinks fit or revoke a license. If the Licensing Authority is satisfied that the holder of the license is prohibited by the Arms Act or by any other law for the time being in force from acquiring, possessing or carrying any arms or ammunition or is of unsound mind or is for any other reason unfit for a license or if it is necessary for the security of the public



peace or for public safety to suspend or revoke the license or if the license was obtained by fraud and suppression of material information or if any of the conditions of the license has been contravened. The license could also be revoked or suspended if a license holder fails to comply with the notice under Section 17 requiring him to deliver up the license.

12. It appears that none of these conditions were available for the cancellation of license of the appellant /writ petitioner.

13. We are also surprised at the contents of the notice given to the appellant asking him to explain within 24 hours, on day to day basis for fifteen years the details of the occasions on which the cartridges purchased by him were spent.

14. We have perused the reply furnished by the appellant, which does not specifically admits of the appellant having spent the cartridges on celebratory firing after 2019.



15. All that the explanation discloses is that 1350 cartridges were acquired over a long period of time from different sources under the license and were spent on special days as also for the purposes of checking the fitness of the weapon so that it is not rendered unfit by disuse.

16. Based on the aforementioned explanation, a police report was called for from the Superintendent of Police, wherein also, no adverse report came against the appellant.

17. Without any further notice to the appellant to deliver up his license and the fire arm and intimating him the reason for proceeding to cancel his license, the license was cancelled only on the ground of having used the weapon for celebratory firing.

18. The learned Single Judge, even after having noted that the proscription of celebratory firing was brought into the statute from the year 2019, only, relied upon three of the clauses, namely, 7, 8 and 9 of Arms



Rules of 2016 to justify the order of cancellation of license and its validation by the appellate authority.

19. In the absence of any adverse report and nothing specific in the explanation of the appellant of having admitted to celebratory firing after 2019, the decisions of the authorities, namely, the District Magistrate and the Commissioner appear to be totally unwarranted and based on complete non-application of mind.

20. For the aforementioned reasons, we set aside the orders passed by the District Magistrate, Saharsa dated 05.08.2021 and the Commissioner dated 03.06.2022 in appeal and the judgment of learned Single Judge upholding the aforementioned two orders

21. However, we direct the District Magistrate, Saharsa / respondent no. 7 to serve a fresh notice to the appellant, within a period of 30 days from today and seek explanation from him as to why his license be not cancelled for having resorted to celebratory firing from



2019 onwards. After the explanation is received and the police report confirms that there had been violation of anyone of the conditions of license, a reasoned order by the District Magistrate shall be passed within a further period of 90 days, which shall be made known to the appellant forthwith.

22. There would be no necessity of returning the arms and license to the appellant in the meanwhile.

23. The appeal stands allowed to the extent indicated above.

24. Interlocutory Applications, if any, also stand disposed of.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.05.2025
Transmission Date	

