
(2003) 10 PAT CK 0034
In the Patna High Court
Case No : C.W.J.C. No. 13717 of 2000

Grand Prix Arms Stores

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 14-10-2003

Acts Referred:

Citation : (2003) 3 BLJR 2301 : (2004) 1 PLJR 421

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Ram Balak Mahto and Manoj Kr. Sinha, for the Appellant; J.C. to G.P.I., for the Respondent

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated 18th of June, 1999 (Annexure-10) passed by the State Government whereby the arms licence granted to the petitioner has been cancelled. Further prayer made by the petitioner is to quash the order dated 20-11 -2000 (Annexure-11) whereby the petitioner has been directed to deposit all arms and ammunition to another licensee.

2. Short facts giving rise to the present application are that the petitioner had arms licence in Form XI for repair, test other than proof test, sale or transfer etc. for arms of non-prohibited bore and prohibited bore viz. rifle, revolver, pistol, B.L./ML gun. Later on it came to the notice that the authority to grant licence for prohibited bore arms of and ammunition is the Central Government and the same was incorporated in the licence of the petitioner by manipulation. Accordingly a show cause notice was given to the petitioner as to why its licence be not cancelled. Petitioner submitted its reply stating therein that notwithstanding the fact that petitioner possessed licence for prohibited bore arm, still it never accepted any prohibited bore arm for repair. The State Government on consideration of the reply given by the petitioner, by the impugned order cancelled the licence.

3. Counter-affidavit has been filed on behalf of respondent Nos. 1 to 3 in which the assertion made by the petitioner that it never accepted any prohibited bore arm for repair has not been denied.

4. Mr. Ram Balak Mahto, Senior Advocate appearing on behalf of the petitioner submits that the matters stands concluded by the judgment of this Court dated 7-8-2002 passed in CWJC No. 4304 of 2002 (Vishwa Nath Pandey v. The State of Bihar and Ors.) and he has drawn my attention to the following passage from the said judgment:--

"In these facts and circumstances, it is very difficult for this Court to agree with the view taken by the Licensing Authority that the unauthorised entries in the licence were in the nature of interpolation, made at the instance of the petitioner and, therefore, the licence was liable to be cancelled. To this Court it appears that the unauthorised entries resulted inadvertently due to some mistake in the office of the Licensing Authority and the petitioner does not deserve to be punished for the same."

5. J.C. to G.P. I appears on behalf of the State and contends that the State Government rightly cancelled the licence of the petitioner.

6. Having appreciated the rival submission I find substance in the submission of Mr. Mahto and the petitioner's case is squarely covered by the decision of this Court in the case of Vishwa Nath Pandey (supra).

7. To me it seems that the unauthorised entries were inadvertently made in the office of the licensing authority, for which no blame could be put on the petitioner.

8. In the result, the application is allowed, impugned order is set aside and respondents are directed to restore the petitioner's licence in Form XI, after deleting the prohibited arms. This exercise be done within six weeks from the date of receipt/ production of a copy of this order. No cost.