
(2001) 07 PAT CK 0055
In the Patna High Court
Case No : C.W.J.C. No. 7790 of 2001

Rajgrih Choubey	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 06-07-2001

Acts Referred:

Citation : (2001) 3 BLJR 1666

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the petitioner has challenged the validity of the order of the District Magistrate-cum-Collector, Kaimur at Bhabhua dated 9-11-1998 passed in Arms Case No. 9/91, contained in Annexure 2 and also the order of the appellate authority dated 16th October, 2000, contained in Annexure 4, affirming the aforementioned order of the Collector, whereby and whereunder the licence bearing No. 122/73 for Rifle bearing No. 6961 of the petitioner was cancelled and revoked and he was directed to deposit his rifle in Police Line, Kaimur, pursuant to which he deposited his arms.

2. Earlier also, the petitioner filed C.W.J.C. No. 10989 of 1996 challenging the validity of the order by which the said licence was cancelled and affirmed by the appellate authority. The said orders were quashed by this Court, vide order dated 4-3-1998, contained in Annexure 1, and the matter was remitted back to the District Magistrate for passing final order in accordance with law in the light of the observation made therein. Thereafter, the impugned order, contained in Annexure 2, was passed and it has been affirmed by the appellate authority, vide, Annexure 4.

3. The order of the Collector shows that the licence of the petitioner was cancelled on the ground that two criminal cases were filed against him, out of which one case ended in acquittal and in another there was no fire-arm injury

found on the complainant. However, the Collector while passing fresh order of cancellation has considered that the accused had burnt the house of weaker section, fired in air and sound of fire was also audible and the petitioner along with other accused Ram Singhasan Choubey formed unlawful assembly and were specifically identified in the light of the fire and had arms in their hands. According to him, they threatened to kill the complainant with gun. However, it is not that there is any allegation of overt act as against this petitioner.

4. Learned Counsel for the petitioner has submitted that a compromise petition has been filed in the second case also which itself is sufficient to show about the false implication of the petitioner.

5. Be that as it may, the second case, which appears to be of the year 1990, has not been concluded till date. Licensing Authority in the impugned order has stated that he cannot permit them to hold arm licences and that in the interest of public peace and security in the area, their arm licences have been cancelled and revoked under the Arms Act. However, it is not even alleged that during the last eleven years, there has been any cloud on the conduct of the petitioner. Under such circumstances, in my opinion, the Licensing Authority is not legally justified in cancelling the licence in the interest of public place and security in the area.

6. Accordingly, the writ petition is allowed and the impugned orders, contained in Annexures 2 and 4, are quashed. The respondent District Magistrate is directed to restore the licence and pass order for return of the arms to the petitioner expeditiously, in accordance with law.