

(2004) 01 PAT CK 0024
In the Patna High Court
Case No : C.W.J.C. No. 8003 of 2001

Uday Pratap Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-01-2004

Acts Referred:

Citation : (2004) 1 PLJR 689

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Basant Kumar Singh, 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 21st of June, 2001 (Annexure-7) passed by the State Government whereby the arms licences granted to the Petitioner in Form XI and XII have been cancelled.

2. Short facts giving rise to the present application are that the Petitioner held duplicate licence No. 7 of 1997 (New) and 7 of 1996 (Old) in Form XI and duplicate licence No. 7 of 1997 (New) and 7 of 1996 (Old) in Form XII. Although the licences, granted to the Petitioner did not relate to prohibited bore arms and ammunition but in the licences so granted it was incorporated. In the opinion of the State Government the same were incorporated with the connivance of the Petitioner for which the order of the Central Government was not obtained. Accordingly, a show cause notice was issued to the Petitioner as to why his licences be not cancelled. Petitioner submitted his reply, inter alia, contending that entries of different prohibited bore arms and ammunition in the licences was made by the State Government and he has not played any fraud or misrepresentation. He further contended that although entry was made in the licences for prohibited bore arms and ammunition but he never dealt in same. The State Government considered the reply of the Petitioner and by the

impugned order cancelled his licences, inter alia, holding that by interpolation Petitioner must have been benefited and as such he has role in the interpolation.

3. Counter affidavit has been filed in which the stand of the Petitioner that he has not dealt with the prohibited bore arms and ammunition has not been disputed.

4. In the background of the pleading It has to be accepted that although in the licence prohibited bore arms and ammunition were entered but the Petitioner never dealt in that.

5. Mr. Basant Kumar Singh appearing on behalf of the Petitioner submits that the very assumption of the Respondents that the Petitioner had hand in interpolation in the licences is unfounded on fact and as such the impugned order passed on such assumption is illegal in the eye of law and fit to be set aside. In support of this sub-mission he has placed reliance on an unreported judgment of this Court dated 7.8.2002 passed in CWJC No. 4304 of 1992 (Vishwa Nath Pandey v. The State of Bihar and Ors.) and my attention has been drawn 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 unauthorized 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 unauthorized 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.

6. J.C. to G.P. I appearing on behalf of the Respondents, however, submits that the State Government had rightly cancelled the licences of the Petitioner.

7. Having appreciated the rival contention I find substance in the submissions of Mr. Singh. In my opinion the case is squarely covered by the decision of this Court in the case of Vishwa Nath Pandey, (supra). To me it seems that unauthorized entries in the licences 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 the Respondents are directed to restore the Petitioner's licences in Form Nos. XI and XII after deleting those portions which are said to have been interpolated. This exercise be done within a period of three months from the date of receipt/production of a copy of this order. No cost.