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10/12/13

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION CASE)

C.W.J.C.NO. _____ /OF 2013.

Randhir Kumar and another.PETITIONER

VERSUS

The State of Bihar and othersRESPONDENTS

SUBJECT :- Arms Act

I N D E X.

Sl. No.		PARTICULARS	PAGE NOS.
01.		An application under Articles 226 of the Constitution of India with Affidavit	1-10
02.	ANNEXURE-1	A true photo stat copy of the Sanha Entry No.237 of 2013	11.
03.	ANNEXURE- 2	A true photo stat copy of the memo no.558 dated 18.11.2013	12.
04.	ANNEXURE- 3	A true photo stat copy of the memo no.1 dated 03.12.2013	13.
05.		VAKALATNAMA	

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C. W.J.C.NO. _____/OF 2013.

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VERSUS

The State of Bihar and othersRESPONDENTS

SYNOPSIS.

RELIEFS:- (I) For quashing the letter dated 18.11.2013 issued under the signature of the Respondent no.3 and contained in his memo no.558 dated 18.11.2013 (ANNEXURE- 2) ,whereby and where under the Respondent no.3 has been pleased to call upon the petitioners to show-cause as to why their Arms License be not cancelled on the ground that a case is pending for investigation against the petitioner no.1.

(II) Commanding and directing the Respondent no.2 to issue duplicate license in favour of the petitioners in respect of the Arms for which they were holding a valid license ,which was lost by them on 14.04.2013 and in respect whereof the petitioners had already filed an application before the Respondent no.2.

FACTS OF THE CASE :

SL.NO. DATE

EVENTS

01. : The petitioner no.1 was the Zila Parishad Member of Madhepura District in 2001-2006 and is presently working as a Lecturer in Science College, Madhepura .

02 :The petitioner no.2 was the Chairman of Madhepura Zila Parishad in between 2006-2011 and presently she is the Member of Zila Parishad .

03. 1996 : The petitioner no.1 was granted one N.P. Bore Riffle bearing License No.01 /1996.
04. 2000 : The petitioner no.1 was granted D.B.B.L. Gun License bearing License No.01 /2000.
05. 2008 :The petitioner no.2 was granted N.P. Bore Riffle bearing License No.01/2008.
06. 2012 :The petitioner no.2 was granted N.P. Bore Revolver License No.01/2012.
07. :The petitioners had deposited their Arms in a Arms Shop in a Arms Shop namely Arms World, Patna except Revolver of petitioner no.2.
08. 14.04.2013 (ANNE-1) :When the petitioner no.2 was going to Madhepura with Arms License for the purposes of its verification ,it was lost in the way . In this regard the petitioner no.2 filed a written application before the Respondent no.7 which was registered as Sanha Entry No.237 of 2013.
09. : Immediately after 14.04.2013 ,the petitioners filed their application before the Respondent no.2 for issuance of duplicate license in their name enclosing the copy of Sanha entry.
10. 30.05.2013 : The Respondent no.2 called for a report from the Respondent no.6 .
11. 15.09.2013 :The Respondent no.6 submitted his report saying that a case against the petitioner no.1 being Madhepura P.S. Case NO.247 of 2009 is pending in investigation.
12. 18.11.2013 (ANNE-2): The Respondent no.3 asked show-cause notice to the petitioners as to why their Arms License be not cancelled.
13. 30.11.2013 : The petitioners have filed their show-cause .
14. 03.12.2013 (ANNE-3) : The Respondent no.3 again issued a show-cause notice , calling upon the petitioners to

show-cause within a week for consideration by the Respondent no.2.

15.

: Under the impugned letters, the Respondent no.2 has virtually disclosed his mind that he would cancel the Arms License of the petitioners and for cancellation purposes only, the petitioners have been called upon to show-cause.

HENCE THIS WRIT APPLICATION.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION CASE)

C. W.J.C. No. _____/OF 2013.

In the matter of an application
Under Article 226 of the
constitution of India;

A N D

In the matter of :-

1. Randhir Kumar , son of Sri Dip Narayan Prasad Yadav,
2. Kumari Nitu Singh, wife of Sri Randhir Kumar,

Both Resident of village and P.O. Ranipatti , P.S. Kumar Khand
,District – Madhepura.

.....**PETITIONERS**

Versus .

1. The State of Bihar through the Chief Secretary ,
Government of Bihar, Patna.
2. The District Magistrate –cum- District Arms Magistrate, Madhepura,
District – Madhepura.
3. The Incharge Officer (Legal) , Madhepura,
District – Madhepura.
4. The Arms Magistrate , Madhepura,
District – Madhepura.
5. The Sub-Divisional Officer , Madhepura,
District – Madhepura.

6. The Sub-Divisional Police Officer ,Madhepura,
District – Madhepura.

7. The Station Head Officer , Belari Outpost under Kumar Khand
Police- Station , District – Madhepura.

..... **RESPONDENTS.**

To,

The Hon'ble Ms. Justice Rekha M. Doshit , the Hon'ble Chief
Justice of the High Court of Judicature at Patna and Her
Lordships Companion Justices of the said Hon'ble High Court.

The humble petition on behalf of the
petitioners above named;

MOST RESPECTFULLY SHEWETH:-

1. That, this writ application on behalf of the petitioners above
named is for the following

R E L I E F S:

- (I) For issuance of an appropriate writ in the nature of
CERTIORARI for quashing the letter dated 18.11.2013
issued under the signature of the Respondent no.3 and
contained in his memo no.558 dated 18.11.2013 ,whereby and
where under the Respondent no.3 has been pleased to call upon
the petitioners to show-cause as to why their Arms License be
not cancelled on the ground that a case is pending for
investigation against the petitioner no.1.
- (II) For issuance of an appropriate writ in the nature of
MANDAMUS , commanding and directing the Respondent
no.2 to issue duplicate license in favour of the petitioners in

respect of the Arms for which they were holding a valid license ,which was lost by them on 14.04.2013 and in respect whereof the petitioners had already filed an application before the Respondent no.2.

(III) For issuance of any other writ /writs, order/ orders, direction /directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.

2. That, the substantial question of law involved in the present writ application are as follows :-

(I) WHETHER, the action of the Respondent no.2 against the writ petitioners is illegal , arbitrary , malafide , unreasonable and untenable in law ?

(II) WHETHER , an Arms License issued by the competent authority after following the due procedure prescribed by the Act can be cancelled by the Licensing Authority even if the Licensee has not violated the conditions of license in any manner ?

(III) WHETHER , pending investigation of a criminal case can be a ground for cancellation of Arms License issued by the competent authority ?

(IV) WHETHER ,the action of the Respondent no.2 is under the teeth of the provisions contained in Section 17 of the Arms Act, 1959 ?

(V) WHETHER ,if the Arms License was given to the writ petitioners keeping in view the danger to their life and property ,the Respondent no.2 is justified to delay the issuance

of duplicate license to the writ petitioners ,original whereof has been lost and a Sanha to this effect has already been lodged in the concerned Police- Station ?

(VI) WHETHER , the impugned order passed by the learned Munsif is otherwise also bad in law ?

3. That, the petitioners are citizen of India and reside within the territorial jurisdiction of this Hon'ble High Court.

4. That, the petitioner no.1 was the Zila Parishad Member of Madhepura District in 2001-2006 and is presently working as a Lecturer in Science College, Madhepura whereas the petitioner no.2 was the Chairman of Madhepura Zila Parishad in between 2006-2011 and presently she is the Member of Zila Parishad.

5. That, the area from which the petitioners belong is a crime prone area and this fact is known to all concerned including Madhepura Administration . The area in question is known for caste and class struggle and ,therefore, all civilized persons living in the locality are afraid of their security.

6. That, since there was serious threat of criminals on the life and property of the two petitioners ,they had filed proper application for grant of Arms License for safety of their person and property.

7. That, after obtaining report from the concerned Officers , the petitioner no.1 was granted one N.P. Bore Riffle License bearing License No.01 / 1996 . In the year 2000 ,he was granted Double Bore Barrel Gun License bearing License No.01 /2000.

8. That, similarly pursuant to valid application filed by the petitioner no.2 ,she was granted one N.P. Bore Riffle License vide License

No.01 / 2008 and under License No.01 /2012 ,the petitioner no.2 was granted one N.P. Bore Revolver License by Licensing Authority of Madhepura District .

9. That, on 14.04.2013, while the petitioner no.2 was on way to Madhepura from her village- Ranipatti on a Motorcycle ,she had lost her bag near the village- Belari in which all four licenses were kept.

10. That, the petitioner no.2 could know about loss of her bag kept on the carrier of Motorcycle when she reached near the village- Belari and had come down from the Motorcycle . She ,therefore, filed a written application before the Station Head Officer of Belari Outpost under Kumar Khand Police- Station on 14.04.2013 itself informing him about the loss of four licenses .

11. That, a copy of the written application filed by the petitioner no.2 was returned to her with the seal of the Police- Station in token of receipt of said letter and on the basis thereof Sanha Entry No.237 of 2013 was recorded in Belari Outpost of Kumar Khand Police- Station .

A true photo stat copy of the Sanha Entry No.237 of 2013 is annexed herewith and marked as **ANNEXURE- "1"** for identification forming part of this writ application.

12. That, before the petitioners lost their Arms License ,they had deposited their Arms in a Arms Shop at Patna namely Arms World except Revolver of the petitioner no.2 when they were going outside the State.

13. That, on return the petitioner no.2 was going to Madhepura with Arms License for the purposes of its verification ,it was lost.

14. That, immediately after 14.04.2013 , the petitioners filed their application before the Respondent no.2 for issuance of duplicate license in their name. Along with their application for issuance of duplicate license ,the petitioners had attached a copy of the information given to the Respondent no.7 about missing of Arms License.

15. That, for the reasons best known to the Respondent no.2 ,though the petitioners had applied for issuance of duplicate license and there was no complaint against them regarding violation of condition of license inviting its cancellation , the Respondent no.2 called for a report from the Sub-Divisional Police Officer, Madhepura vide his letter no.1089 dated 30.05.2013 . Even a copy of the said letter was not addressed to the writ petitioners .

16. That, from the impugned letter of the Respondent no.3 itself , it would appear that the Sub-Divisional Police Officer, Madhepura had submitted his report under memo no.1742 / 2013 dated 15.09.2013 ,wherein he had submitted that a case against the petitioner no.1 being Madhepura P.S. Case No.247 of 2009 dated 20.06.2009 is pending in investigation.

17. That, in view of the report submitted by the Sub-Divisional Police Officer, Madhepura ,the Respondent no.3 issued a letter vide his memo no.558 dated 18.11.2013 , calling upon the petitioners to show-cause as to why their Arms License be not cancelled.

A true photo stat copy of the memo no.558 dated 18.11.2013 is annexed herewith and marked as

ANNEXURE- "2" for identification forming part of this writ application.

18. That, the petitioners responded to the aforesaid letter of the Respondent no.3 and have filed their show-cause on 30.11.2013 . Notwithstanding that the petitioners have filed their show-cause on 30.11.2013 ,the Respondent no.3 has again issued a letter contained in memo no.1 dated 03.12.2013 , again calling upon the petitioners to show-cause within a week for consideration by the Respondent no.2.

A true photo stat copy of the memo no.1 dated 03.12.2013 is annexed herewith and marked as **ANNEXURE- "3"** for identification forming part of this writ application.

19. That, under the impugned letters, the Respondent no.2 has virtually disclosed his mind that he would cancel the Arms License of the petitioner and for cancellation purposes only , the petitioners have been called upon to show-cause.

20. That, it is stated that the grounds for variation , suspension and revocation of licenses are provided under Section 17 of Arms Act,1959.

21. That, the petitioners would state that a notice for revocation of a license can be issued by the competent authority when either of the conditions prescribed under Sub-Section -3 of Section -17 of the Arms Act exists.

22. That, in other words if the notice issued for revocation of cancellation of license and the grounds contained therein is not covered by

any of the conditions as prescribed under Sub-Section -3(a) to 3 (e) of Section -17 of the Arms Act ,the notice for cancellation /revocation would itself bad in law.

23. That, from the notice issued to the petitioners by the Respondent no.3 ,it would be evidently clear that the grounds mentioned therein for the purposes of proposed cancellation is pending investigation of a criminal case against the petitioner no.1 . So far the petitioner no.2 is concerned , the cancellation is proposed only because she is the wife of the petitioner no.1.

24. That, the ground thus mentioned in the notice is since not covered by any of the conditions mentioned in Sub-Section -3(a) to 3(e) of Section -17 of the Arms Act ,the impugned notice itself is fit to be quashed.

25. That, for the fault of the Respondents ,the petitioners are going without Arms since April, 2013 though there is serious threat to their life and property .

26. That, in the circumstances , the Respondent no.2 cannot detain issuance of duplicate license to the petitioners for such a long time .The petitioners would state that ,if any, wrong is committed with the life or property of the writ petitioners ,it is the Respondent no. ,who would be responsible for that.

27. That, under the facts and circumstances stated hereinbefore , the petitioners have no other alternative or efficacious remedy except to move before this Hon'ble High Court for vindication of their justified grievance.

28. That, the petitioners have not moved this Hon'ble High Court for the relief as sought for in the present writ application.

It is, therefore, most humbly prayed that Your Lordships may graciously be pleased to admit this application, issue Rule NISI, calling upon the Respondents to show cause as to why this application be not admitted or disposed of at the time of Admission Stage itself and on return of the Rule, if no sufficient cause is shown, make the Rule absolute, allow this application and after hearing the parties be further pleased to grant relief to the petitioners as sought vide paragraph no.1 of this writ application.

A N D / O R

Pass such other order or orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

A N D

During the pendency of this writ application, the operation of the impugned notice contained in memo no.558 dated 18.11.2013 (ANNEXURE- 2) and further action against the petitioners may kindly be stayed .

And for this, the petitioners shall ever pray.

A F F I D A V I T.

I, Randhir Kumar , aged about-43 years, son of Sri Dip Narayan Prasad Yadav, resident of village and P.O. Ranipatti , P.S. Kumar Khand ,District – Madhepura, do hereby solemnly affirm and state as follows:-

1. That, I am petitioner no.1 in the present case and as such am well acquainted with the facts and circumstances of the case.
2. That, the contents of this application and affidavit have been read over and explained to me in Hindi which I have fully understood.
3. That, the statements made in paragraph Nos.3 to 10 , 12 to 16 and 19 to 28 are true to my knowledge and those statements made in paragraph nos. 11,17 and 18 are information derived from the records of the case and rest are by way of submissions before this Hon'ble court which I believe to be true.
4. That, the annexures are true photo stat /typed copies of their respective original.

एनक्सघर-1
=====

T/C

11

सेवा में,

धाना अध्यक्ष

बेलाड़ी ४ओ०पी०४ कुमारखण्ड, मधुपरा।

विषय:- शस्त्र का अज्ञापित के साथ-साथ अन्य का एवं सामान खों जाने के सम्बन्ध में।

महाशय,

निवेदन पूर्वक कहना है कि दिनांक 09-4-2013 को मैं अपने घर रानी पदटी स मधुपरा जाने के क्रम में लाड़ी के पास मोटर साइकिल के पीछे रखा बैग गिरा गया जिसकी जानकारी मुझे बाद में मिली उक्त बैग में कागजात और रुपये आदि सामान भी था। तथा मेरा और मेरे पति प्रो० रणधीर कुमार के नाम का अज्ञापित भी था। जिसका व्योरा निम्न प्रकार है।

१।१ कुमारी नीतू सिंह- राइफल, अज्ञापित तै०- 01/2008

१।२ कुमारी नीतू सिंह - रिवाल्वर " " - 02/2012

१।३ रणधीर कुमार- राइफल " " -01/1996

१।४ रणधीर कुमार - दा नाली बन्दुक " " 01/2000

जो खो गया है। मैं उक्त बैग को काफी खोजा ताकि अन्य कागजात के साथ शस्त्र अज्ञापित भी मिल जाय। लेकिन नहीं मिल पाया।

श्रीमान को सूचनाई एवं आवश्यक कार्यवाही हेतु अवेदन दे रही हूँ जिस सनहा के रूप में दर्ज कि जाय। इस लिए श्रीमान का सदा आभारी रहूँगी।

विश्वासभाजन

कुमारी नीतू सिंह

पति- प्रो० रणधीर कुमार

गा०-पा०- रानी पदटी

धाना - कुमारखण्ड

सस०डी० नं० 237/13

ह०/-अ० 14/4/2013

Ann. 2 (12)

समाहरणालय, मधेपुरा
(शस्त्र शाखा)

ज्ञापांक.....558...../शस्त्र,

जिला शस्त्र शाखा, मधेपुरा,
दिनांक 18-11-2013

प्रेषित,

01. श्रीमती कुमारी नीतू सिंह, पति-प्रो० रणधीर कुमार,
ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।
02. प्रो० रणधीर कुमार, पिता-श्री दीप ना० प्र० यादव
ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।

विषय : स्पष्टीकरण के संबंध ।

क्र०	अनुज्ञापिका का नाम	अनुज्ञापिका संख्या	शस्त्र का प्रकार
1	श्रीमती कुमारी नीतू सिंह, पति-प्रो० रणधीर कुमार, ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।	01/2008 (कुमारखण्ड थाना)	एन०पी०बोर रायफल संख्या- ए०बी० 08 01215 (315बोर)
2	श्रीमती कुमारी नीतू सिंह, पति-प्रो० रणधीर कुमार, ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।	01/2012 (कुमारखण्ड थाना)	एन०पी०बोर रिवाल्वर संख्या- ए 24589 (32 बोर)
3	प्रो० रणधीर कुमार, पिता-श्री दीप ना० प्र० यादव, ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।	01/2000 (कुमारखण्ड थाना)	दो माली बन्दूक संख्या-10719
4	प्रो० रणधीर कुमार, पिता-श्री दीप ना० प्र० यादव, ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।	01/1996 (कुमारखण्ड थाना)	एन०पी०बोर रायफल संख्या- ए०बी० 96 2643 (315बोर)

आपलोगों के द्वारा अपनी-अपनी उक्त अनुज्ञापिकाओं के खो जाने के कारण सनहा के साथ द्वितीयक प्रति निर्गत करने हेतु आवेदन दिया गया था, जिसे इस कार्यालय के पत्रांक 1089/गो०, दिनांक 30-05-2013 द्वारा संलग्न कर अनुमण्डल पुलिस पदाधिकारी, मधेपुरा से प्रतिवेदन की मांग की गई थी। अनुमण्डल पुलिस पदाधिकारी मधेपुरा द्वारा अपने ज्ञापांक 1742/13, दिनांक 05-09-2013 से प्रतिवेदन समर्पित किया गया है, जिसमें उल्लेख है कि मधेपुरा थाना कांड संख्या 247/09, दिनांक 20-06-09 धारा 302/120बी/34 भा०द०वि० एवं 27 आर्म्स एक्ट में श्री रणधीर कुमार के विरुद्ध पूरक अनुसंधान जारी है।

अतएव अनुमण्डल पुलिस पदाधिकारी मधेपुरा के ज्ञापांक 1742/13, दिनांक 05-09-2013 की छायाप्रति संलग्न करते हुए निदेश है कि आपलोग उक्त पत्र में वर्णित तथ्यों/ कांडों के आलोक में आप विहित प्रपत्र में विवरण के साथ अपना स्पष्टीकरण एक पक्ष के अन्तर स्वयं या अधिवक्ता के माध्यम से जिला पदाधिकारी महोदय के समक्ष उपलब्ध कराना सुनिश्चित करें कि क्यों नहीं आपलोगों के उक्त अनुज्ञापिकाओं को रद्द कर दी जाए।

अनुलग्नक : चयोक्त।

विहित प्रपत्र की छायाप्रति संलग्न।

प्रभारी पदाधिकारी,
विधि, मधेपुरा।

16/11/13 16/11

समाहरणालय, मधेपुरा
(शस्त्र शाखा)

ज्ञापांक 01/सिपत्र/शस्त्र.

जिला शस्त्र शाखा मधेपुरा
दिनांक 03-12-13

प्रेषित,

01. श्रीमती कुमारी नीतू सिंह, पति-श्री० रणधीर कुमार,
ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।
02. प्रो० रणधीर कुमार, पति-श्री दीप ना० प्र० यादव
ग्राम+पो०-रानीपट्टी, थाना-कुमारखण्ड, जिला-मधेपुरा।

विषय : स्पष्टीकरण के संबंध ।

प्रसंग : इस कार्यालय का ज्ञापांक 558/शस्त्र, दिनांक 18-11-2013

उपर्युक्त विषयक प्रासंगिक पत्र का कृपया निर्देश करें, जिसके द्वारा आप लोगों से अनुसंधान पुलिस पदाधिकारी मधेपुरा के ज्ञापांक 1742/13, दिनांक 05-09-2013 की छायाप्रति संलग्न करते हुए तथ्यों/कांडों के आलोक में आप लोगों से विहित प्रपत्र में पूर्ण विवरण के साथ स्पष्टीकरण की मांग की गई थी। आलोक में आप लोगों के द्वारा अधूरा स्पष्टीकरण समर्पित किया गया है एवं विहित प्रपत्र में सूचना उपलब्ध है।

अतएव आप लोग अपना-अपना स्पष्टीकरण साक्ष्य सहित विहित प्रपत्र में विवरण का उपरोक्त मांग के अनुसार जिला के वेबसाइट <http://www.madhepura.bih.nic.in> पर उपलब्ध है) एक सप्ताह में जिला उपायुक्त के कार्यालय के अवलोकनार्थ स्वयं या अपने अधिवक्ता के माध्यम से समर्पित करना सुनिश्चित करें।

अनुलग्नक : सद्योक्त।

विहित प्रपत्र की छायाप्रति संलग्न।

प्रभारी पदाधिकारी
शस्त्र, मधेपुरा।

सेवा में

धाना अध्यक्ष

बेलाड़ी (जा.पी.) कुपारखण्ड, पच्चीपुरा ।

विलय:-

शास्त्र का अनुश्रुति के साथ-साथ अन्य का
जैसे स्थापना स्वी. जाने के सम्प्रदाय में ।

पहलराय

विवेकानंद चरना है कि दिनांक:- 09-24-2

में में अपने घर रानी पट्टी से पच्चीपुरा जाने के 5

बेलाड़ी पंचमोहर साहकिल के पीछे रखा बैठा गिरा गया,

जिल्ला जातकारी मुझे बाढ़ में मिली, उम्मे बैठा ।

कागजात और रूपये जादि स्थापना की था। तथा

पैरा और पैरे पति प्राण रणधीर कुपार के नाम श

अनुश्रुति भी था। जिसका हथोरा निम्न प्रकार है:-

- 1) कुपारी नीत सिंह → राष्ट्रफल, अनुश्रुति संठ → 01/20
- 2) कुपारी नीत सिंह → रिवाल्बर, " " → 01/20
- 3) रणधीर कुपार → राष्ट्रफल " " → 01/199
- 4) रणधीर कुपार → हौ नाली बन्दुक्त " " → 01/20

जां रखा गया है। मैं उम्मे बैठा की काफ़ी रको
ताकि अन्य कागजात के साथ शास्त्र अनुश्रुति भी
गए। लेकिन नहीं मिल पाया।

जी पान की सूचनाय (जै आवश्यक अर्थवा
है उ आवेदन के रसे है। जिस स्मृता के रूप में है कि
गए। इस लिए जी पान का सदा जागरी रहूँगी।

बिभूषालभाजन
कुमारी नीत सिंह
पति → प्राण रणधीर कुपार
माता → रानी पट्टी
धाना → कुपारखण्ड

