

पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख के
साथ

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख के
साथ

11/11/24

**Court of Divisional Commissioner,
Santhal Pargana Division, Dumka**

ARMS APPEAL No. 345/2023

Kamlesh Kumar Singh
-Vrs-

The Deputy Commissioner, Dumka

Order

The instant appeal has been filed against order memo No.83 dated 07.08.2021 passed by the Deputy Commissioner-cum-District Magistrate, Dumka. The appellant before filing the appeal has filed W.P(C) No. 3465/2021 before Hon'ble Jharkhand High Court, Ranchi for quashing the order of Deputy Commissioner-cum-District Magistrate, Dumka. The honorable Jharkhand High Court, Ranchi has dismissed the case on 05.04.2023 providing liberty to prefer statutory appeal before this court. In the light of Liberty granted by the high court this appeal is being filed.

The brief fact of the case is that the appellant has obtained arms License of one revolver being License No. 21/1989 D and other one is for rifle being License No. 77/1994 D. The License has been renewed continuously from the year 1989 to 2009. The appellant after 2009 applied in prescribed format with request to renew the License that he has submitted during the period of Lok Sabha election but the explanation submitted by appellant was not satisfactory. Further the appellant was called for processing his arms license renewal application on 25.3.2014 failed to process but appellant paid no heed as a consequence of it ultimately the arms license of the appellant was cancelled vide letter No. 88 dated 07.08.2021. Being aggrieved with the order the appellant filed W.P(C) No. 3465/2021 therein praying for quashing the order contained in order memo No.83 dated 07.08.2021. The hon'ble Jharkhand High Court, Ranchi has been pleased to not entertain it on merit and dismissed the petition with a liberty of preferring statutory appeal under Section 18 of the arms act 1959 before the Commissioner of Santhal Pargana Division, Dumka with the observation if the petitioner prefers an appeal by 24th of April along with an application seeking condonation of delay before the appellate authority the said authority shall consider such application liberally and shall proceed to

hear and dispose of the appeal expeditiously preferably within two months from the date of filing of the same.

The learned Counsel of the appellant submitted that appellant has been repeatedly trying his best to get his license renewed, submitted the requisite fee and challan and as such the cancellation of arms license on said ground is not sustainable in law. The counsel further submitted the terms and condition of license has not been ever violated. The cancellation of arms license order dated 8 of 2021 without issuing any notice or Show cause is violative of following basic principle of natural justice. The Counsel further argued that District Arms Magistrate, Dumka is under the statutory obligation for renewal of arms license of appellant pending under consideration since 2015 and omission of the same amounts to failure in discharge of statutory obligation who is under constant threat and danger of his life and liberty. He further argued that Deputy Commissioner-cum-District Magistrate, Dumka has not initiated any proceeding against the appellant and has in arbitrary and mechanical manner cancelled the license of the appellant.

The respondent Deputy Commissioner-cum-District Magistrate, Dumka submitted that the appellant had filed W.P(C) No. 3465/2021 for quashing the order contained in order memo No.83 dated 07.08.2021 whereby and whereunder the arms license of appellant has been cancelled. The Hon'ble High Court after hearing the matter has dismissed the writ petition of the petitioner vide order dated 05.04.2023. The Hon'ble High Court has fixed the limitation for filing the above appeal within 24th of April 2023 but it has not been filed in stipulated time and filed the present appeal after expiry of limitation period on 05.05.2023 and further submitted that the limitation fixed by any higher court can be stretched only by higher court and so, on the above stated ground alone the appeal is fit to be dismissed and further submitted that the Ministry of Home Affairs, Union of India for the purpose of National level standardized and uniform system of Arms License Issuance System (ALIS) in place of existing issuance, renewal system for arms license etc introduced National data for arms license and accordingly generation of Unique Identification number (UIN) and the license without UIN would be considered as invalid. The software of NDLS was put place on NIC well before 18th of October, 2012. it was further submitted that the Deputy Commissioner-cum-District Magistrate, Dumka informed all the license holder by publishing office order in local newspaper to submit the required application in prescribed form for registration in NDAL within 31st of May 2015 and further extended the date for 31st of August 2015 and thereafter again extended the date for 19th of September 2015. it is further submitted that Under Secretary, Home, Prison and Disaster management department, Government of Jharkhand, Ranchi vide

his letter No.1767 dated 29.03.2016 directed that the license without UIN will be considered invalid from 01.04.2016. It is submitted that the appellant has not applied for registration of arms license in NDAL in respect of his aforesaid license and UIN could not be generated and the said license of the petitioner became invalid from first of April 2016. Further it is submitted that appellant has willfully not submitted his arms during Parliamentary election-2014 of the state for which a show cause notice was issued from the office of the Deputy Commissioner-cum-District Magistrate, Dumka containing memo No. 143/arms dated 05.08.2014 and thus has violated the provisions of Arms Act-1959. The respondent further submitted that it was not necessary to initiate any proceeding for cancellation of arms license of the petitioner because it was the policy decision for all arms license holders.

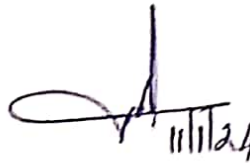
Heard both the parties and perused the documents on record, I find that the order of the Deputy Commissioner-cum-District Magistrate, Dumka containing order memo No.83 dated 07.08.2021 cancelling the license of the appellant is just and legal. In my opinion there is no need of interference in the order.

Hence this Arms Appeal is Dismissed.

Dictated and Corrected by me



Commissioner
Santhal Pargana Division,
Dumka



Commissioner
Santhal Pargana Division,
Dumka