

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 03/2014
Sudarshan Yadav
Vrs.
The State of Bihar
ORDER

The instant appeal petition has been heard pursuant to the order passed by Hon'ble High Court on 04.10.2018 while disposing of CWJC No. 3984/2018 Sudharshan Choudhary @ Sudarshan Yadav Vrs The State fo Bihar & ors.

The brief facts of the case are that one Sudharshan Yadav S/o Ram Ratan Choudhary R/o Vill-Siyahi Khurd, P.S.-Barharia, Dist-Siwan was holding an arms licence No. 18/2000 for 315 Bore Rifle No. AB004688. Further case is that the appellant's arms licence was suspended by the licencing authority as he along with others were made accused in Barharia P.S. case No. 156/2004, U/s 447/341/323/324,504/34 IPC and 27 Arms Act and the said action was necessitated following the report submitted by police to the D.M. Siwan regarding misuse of Arms by the appellant. Furthermore, when the appellant was acquitted by the trial Court, the appellant approached the licencing authority for revocation of suspension of licence vide Misc. (Arms) case No. 17/2012-13. The learned D.M. vide order dt. 21.11.2013 cancelled the said licence of the appellant holding that the appellant is not competent to hold arms licence and misuse of the same can not be ignored. Feeling aggrieved by the said order the appellant preferred an Arms Appeal No. 03/2014 before this Court but the same was dismissed in default vide order dt. 15.02.2016 and subsequently restoration case No. 54/16 was also dismissed on 08.04.2016 in default. The second restoration petition filed by the appellant was also dismissed by this Court on 10.08.2018. Thereafter, being aggrieved by all the three orders, the appellants preferred CWJC No. 3934/2018 before the Hon'ble High Court and the Hon,ble Court was pleased to remand the case with a direction to dispose of the same within six weeks. This led to re-hearing of this case by this Court.

Heard the learned counsel for the appellant and learned A.P.P.

The learned counsel appearing on behalf of the appellant while assailing the impugned order of D.M. Siwan submitted that the same has been passed without considering the relevant facts of the case properly. He further submitted that although the appellant was made as accused in Barharia P.S. case No. 156/2004 but he was acquitted by the trail Court as such there was no reason for cancelling the arms licence of the appellant. He also argued that the learned D.M. did not consider the order of the learned session Judge, wherein it has been observed that no case is made out U/s 27 Arms Act against the appellant and even completely ignored the observation of the Court that none of the witness has supported the case. He also submitted that the learned Court has not assigned any good reason for not restoring the arms licence. The learned counsel lastly submitted that as the impugned order of D.M. Siwan is arbitrary and illegal, the same is fit to be set aside and this appeal be allowed.

The learned A.P.P., on the other hand, opposed the arguments made by the learned counsel for the appellant and submitted that as the appellant was made accused in Barharia P.S. case No. 156/04 and in the said case he was charged for misusing his arms and also some other sections of IPC, the action of cancellation of licence of the appellant is legal and as such the same is fit to be upheld.



Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the appellant's arms licence has been initially suspended and subsequently cancelled by the licencing authority for alleged misuse of the arms resulting in lodging a case against him vide Barharia P.S. case No. 156/2004 under different section of IPC and Arms Act. The sole contention of the learned counsel for the appellant is that as the appellant has been acquitted by the trial Court for the alleged charges of causing injury to the informant by the said arms, the appellant deserves that his arms licence be restored. I find some substances in the said claim of the learned counsel for the appellant. However, it is seen that the learned D.M. Siwan while refusing to restore the licence held that the appellant was acquitted only on the basis of compromise. This findings of the learned D.M. seems to be true. The learned counsel for the appellant is also of the view that threat perception of the appellant has been totally ignored in the instant case by the licencing authority. It is true that the appellant was holding an arms licence earlier but whether the appellant still qualifies for holding arms licence is an important point for consideration now at the level of licencing authority in view of the past conduct and present threat perception with regard to security and safety of the appellant. The licencing authority needs to consider as to whether the appellant really faces any threat of security to his life and property so as to enable him to get his cancelled licence restored. In this connection, the learned D.M. Siwan is directed to call for a fresh report with regard to threat perception and antecedents of the appellant, from S.P. Siwan and only after considering that pass a fresh order in accordance with law.

For the aforementioned reasons, the impugned order of D.M. Siwan is set aside and the case is remitted back to D.M. Siwan.

With the aforesaid observations and directions, the appeal petition is disposed of.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.

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