

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 209/2016
Binod Kumar Rai
Vrs.
The State of Bihar
ORDER

The instant appeal application is directed against the impugned order passed by D.M. Saran, as contained in memo No. 444 dt. 29.08.16 whereby and whereunder the Arms licence No. 10/2012 for Rifle standing in the name of the appellant has been cancelled with immediate effect.

The brief facts of the case are that one Binod Kumar Rai S/o Late Rabindra Rai, R/o Vill-Suratpur, P.S.-Doriganj, Dist-Saran was holding an arms licence No. 10/2012. Further case is that the S.P. Saran vide letter No. 187/confi. dt. 19.01.16 sent a report that the allegation against the appellant as alleged in Doriganj P.S. case No. 59/15 u/s 341/447/504/34 of IPC and section 27 of Arms act have been found true in the supervision report. Thereafter, the learned D.M. Saran acting on the said report of S.P. Saran cancelled the arms licence vide order contained in memo No. 444 dt. 29.08.2016.

Feeling aggrieved by the said order, the petitioner has filed the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the same is illegal, arbitrary and against the relevant provision of the Arms Act. He further argued that the licencing authority without giving any opportunity of hearing to the appellant, passed the impugned order only on the report of S.P. Saran thereby violating the principle of natural justice and fair play. The learned counsel for the appellant submitted in detail about the genesis of Doriganj P.S. case No. 59/15 in which the appellant was falsely implicated and made accused leading to sending of a report S.P. Saran which became the reason for cancellation of licence. He further argued that all the allegations of misuse of arms by the appellant are false and the same has been levelled due to enmity. The learned counsel lastly prayed that as the impugned order suffers from the vice of arbitrariness, the same is fit to be set aside.

The learned A.P.P. appearing on behalf of the state, vehemently opposed the arguments forwarded by the learned counsel for the appellant and said that as the appellant has not yet been acquitted in the criminal case lodged against him under various section of IPC and Arms Act his prayer for restoration of licence was not considered by the licencing authority. He further said that there is no need of interference by this Court at this stage.

Considering the facts the circumstances of the case, material available on the records and on going through the respective submissions advanced by the learned counsel for the parties. It appears that the learned D.M. Saran has passed the impugned order only on the recommendation made by S.P. Saran vide letter No. 187/Govt. dt. 19.01.16 mentioning there in that the appellant has been made accused in Doriganj P.S. case No. 59/15 registered under various section of IPC. The learned counsel for the appellant has laid maximum stress on the

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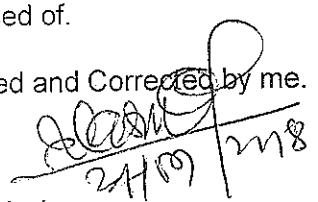
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point that the impugned order has been passed in utter violation of the provisions contained in Arms Act-1959 inasmuch as the appellant has not been afforded any opportunity of hearing by the licencing authority. This averment of the learned counsel for the appellant has some substance which is quite obvious from the impugned order itself. In fact, nothing is mentioned in the impugned order regarding giving any opportunity to the appellant to defend himself before passing the impugned order. This action of the licencing authority seems to be violation of the principle of natural justice also. As such, the impugned order of the D.M. Saran is unsustainable in law.

For the aforesaid reasons, I am not constrained to uphold the impugned order of D.M. Saran as contained in memo No. 444 dt. 29.08.16 and accordingly, the same is set aside and the case is remitted back to D.M. Saran for fresh consideration and to dispose of the case after giving opportunity of hearing to the appellant.

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

Dictated and Corrected by me.


24/9/18
Commissioner
Saran Division, Chapra.


24/9/18
Commissioner
Saran Division, Chapra.