

**In The Court of Commissioner, Saran Division, Chapra**

**Arms Appeal No. 55/2017**

**Neetu Devi @ Neetu Sahi**

**Vrs.**

**The State of Bihar**

**ORDER**

The instant appeal petition is directed against the impugned order passed by D.M. Gopalgnaj on 03.02.2017 whereby and whereunder the arms licence No. 260/06 of N.P. bore Rifle standing in the name of the appellant has been cancelled.

The brief facts of the case are that the appellant Neetu Devi @ Neetu Sahi, W/o Dinesh Kumar Sahi, R/o Vill-Chainpur, P.S.-Hathua, Dist-Gopalganj was holding an arms licence for N.P. bore Rifle vide licence No. 260/06. Further case is that the S.P. Gopalganj sent a report to the D.M. Gopalganj wherein it was recommended that the licence of the appellant be cancelled as he feared that the licenced arms may be misused by the appellant. Thereafter, acting on the said report of S.P. Gopalganj, the D.M. Gopalganj suspended the said licence with immediate effect and show cause was issued to the appellant stating therein as to why not her said licence be cancelled also. The appellant filed her show cause reply before D.M. Gopalganj. After that the learned D.M. heard the matter and finally vide order dt. 03.02.2017 cancelled the arms licence of the appellant. Feeling aggrieved by the said order, the present appellant has filed the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant at the very outset of his argument submitted that the impugned order is not sustainable in the eye of law as the same has been passed in a mechanical way by completely overlooking the relevant provisions of the Arms Act. He further said that the learned D.M. Gopalganj has not appreciated that there was nothing adverse against the appellant except a FIR registered against her. He further said that FIR can not be a conclusive proof of any occurrence and also strongly submitted that the learned D.M. has not considered that the appellant is neither convicted in any case nor has used the arms in Hathua P.S. case No. 78/2016. The learned counsel further argued that the D.M. has not properly appreciated the show cause reply filed by the appellant rather he has passed the impugned order which is simply based on the police report that the licensee is a hot tempered lady. The learned counsel further narrated in detail about the whole course of events leading to cancellation of the arms licence of the appellant and also said that by the action of the authority, the appellant has virtually thrown as prey for the criminals and persons who are inimical to the appellant. He also criticized as to how the learned D.M. concluded that the appellant is a hot tempered lady and for that reason she is not fit to hold arms licence. He lastly prayed that keeping in view the status of the appellant, her non involvement in any crime and the threat looming large over the appellant, his cancelled licence needs to be restored and as such impugned order be set aside.

The learned A.P.P. appearing on behalf of learned D.M. Gopalganj submitted that earlier the licence of the appellant was suspended on the report of S.P. Gopalganj for the being made named accused in Hathua P.S. case No. 78/16 and later on cancelled the said licence. He further submitted that the said order is proper as such the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is obvious that the appellant's arms licence has been firstly suspended and later on cancelled and the said action by the licencing authority has been taken only when a recommendation to this effect was sent by S.P. Gopalganj following registration of Hathua P.S. case No. 78/16 in which the appellant was a named accused. The learned counsel for the appellant is of the view that the said cancellation order has been passed by the learned D.M. in a mechanical manner without considering the entire facts relating to lodging of Hathua P.S. case No. 78/16. He also strongly stated that mere lodging of FIR against the appellant should not be a conclusive proof for believing that the person named in the FIR has committed the crime and unfit for keeping licenced arms. The other important point raised by the learned counsel for the appellant is that the said arms of the appellant was already deposited on 06.03.16 in the shop of an Arms dealer in view of Gram panchayat election and Hathua P.S. case No. 78/16 is registered on 02.05.16 then how can one say that the said arms has been misused by the appellant in any incident for which a police case was lodged. This plea of the appellant counsel seems to be correct. The learned counsel also drew the attention towards the findings of the licencing authority that the licensee being a hot tempered lady, she is not fit to hold an arms licence. This finding of the learned D.M. seems to be ridiculous in view of the fact no reason has been cited as to how he reached on such a conclusion. In fact, arms licence to an individual is granted for ensuring his/her safety and security of life and property. The appellant's plea that in absence of any arms, she feels grave danger to her life and property from the criminals of the area. This plea seems to be true to some extent in view of the fact that earlier the arms licence to her might have been granted by the licencing authority on evaluating the need of the same and now revoking the same on petty cause, seems to be illogical and arbitrary. In view of the discussion made above, it would not be exaggeration to say that the learned D.M. Gopalganj has passed the impugned order without applying his mind rationally and on this score, the entire order becomes vitiated.

For the reasons stated above, the impugned order of D.M. Gopalganj dt. 03.02.2017 is not sustainable and hence the same is set aside. The case is remitted back to D.M. Gopalganj for fresh consideration of the matter and to pass a fresh order in accordance with law.

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

Dictated and Corrected by me.

Commissioner  
Saran Division, Chapra.

Commissioner  
Saran Division, Chapra.