

**In The Court of Commissioner, Saran Division, Chapra**  
**Arms Appeal No. 24/2013**  
**Gang Dayal Prasad Yadav**  
**Vrs.**  
**State of Bihar & Ors.**  
**ORDER**

The instant appeal application is directed against the impugned order passed by District Magistrate, Gopalganj as contained in Memo No.25 dated 10.01.2013 whereby and where under the appellant's three Arms Licences vide Licence No. 07/95 for DBBL Gun, Licence No. 5/96 for Rifle and Licence No. 50/2002 for Revolver /Pistol was cancelled at one stroke.

The brief facts of the case are that the appellant Gang Dayal Prasad Yadav S/o Late Munar Yadav R/o Village- Aamwan Nakched P.S. Gopalganj town Dist- Gopalganj was granted three arms Licences for three kind of fire arms on three different occasions. The further case is that due to involvement of the appellant in some kind of land dispute relating to forceful possession of Bhoodan Land and threatening of lawful land holder through licenced Arms and on knowing this, the Police after investigating the matter the S.P. Gopalganj sent a detailed report vide Memo No. 3098/c dated 12.09.2012 to D.M. Gopalganj. Acting on this report, the D.M. Cum Licensing authority vide memo No. 835 dated 13.09.2012 suspended the three Arms Licences standing in the name of the appellant and also ordered officer incharge, Gopalganj P.S. to seize the arms from the appellant and also called show cause from the appellant. The appellant filed two sets of show cause reply firstly on 14.09.2012 and secondly on 17.09.2012. Thereafter, in the light of the said show cause replies, a report relating to pending cases and criminal antecedent of the appellant was sought for from S.P. Gopalganj vide memo No. 922 dated 06.10.2012. The S.P. Gopalganj submitted his report vide memo No. 3839 dated 05.11.2012 stating therein the criminal case pending against him and also the status of those cases at the relevant time. He also filed some photographs wherein either the supporters of the appellant himself shown as holding fire arms in public places. Then the D.M. Gopalganj acting on the report and recommendation of S.P. Gopalganj cancelled the above three fire arms License of the appellant.

On being aggrieved by and dissatisfied with the order of D.M. Gopalganj whereby the Arms License of the appellant was cancelled, the appellant preferred this appeal.

This case was admitted on 19.02.2013 and lower court records were called for Again on 06.02.2014 this case was taken up for hearing. In course of hearing, the learned counsel appearing on behalf of the appellant submitted that although there is no criminal case is pending against the appellant on the day of passing of impugned order, the D.M. cancelled the arms licences without affording any opportunity to the appellant to explain his position. This court on not being satisfied with the above submission directed the learned counsel to file a detailed reply relating to criminal case and there status as mentioned in the report of S.P. Gopalganj which has been sent to D.M. Gopalganj vide memo No. 3839/C dated 05.11.2012.



On the next date of hearing, the learned counsel filed a detailed replies in compliance to the direction given on previous date.

In course of argument the learned counsel submitted that all the cases against the appellant which are mentioned in the sp's report are cases arising out of land dispute, politically motivated and based on personal grudge. He also argued that before submission of the said report the appellant was already either exonerated or acquitted by the concerned Court or Authority investigating the case. The learned counsel further submitted that the S.P. has neither recommended for the cancellation of Licences nor made any adverse remarks in his report but the learned D.M. did not apply his judicial mind while passing the order. The learned counsel further argued that the act of D.M. is violation of articles 14 and 21 of the constitution of India in as much as without affording proper opportunity the arms license have been cancelled. He also submitted that provision of section 17(3) (b) and (d) of the Arms Act does not establish prima facie allegation against the present appellant. The learned counsel heavily relied upon a series of reported judgements and quoted them to substantiate his contention. The learned counsel lastly submitted that although there is constant threat to life and property of the appellant and this has also been mentioned in the report of o.c. Town P.S. Gopalganj, the same has not been considered at all by the D.M. The learned counsel lastly prayed that the impugned order of D.M. be set aside and the arms Licence be restored.

The learned spi P.P. appearing on behalf of D.M. Gopalganj supported the views forwarded by the learned counsel for the appellant so for his claim that in almost all cases the appellant has been acquitted by the competent court or his name has been expunged from the charge sheet.

Considering the facts and circumstances of the case, material available on records and views forwarded by the learned counsel for the parties, it is seen that although there are several criminal cases have been lodged against the appellant under various section of I.P.C. in the same police station for some offence alleged to have been committed by him. The sections of I.P.C. under which FIRS have been lodged, mostly relates to family land dispute because in most of case the informant is his elder brother Raja Ram Yadav. For instance, Gopalganj P.S. case No. 156/08 dated 15.07.2008 u/s 341, 323, 504/34 Gopalganj P.S. case No. 373/05 u/s 147, 148, 323, 384, 504/34 the informant is Raja Ram Yadav and in these case the appellant has been acquitted by the competent court. The important point of consideration here is that section 17(3) of the Arms Act- 1959 laid down the clear provisions for variation, suspension and cancellation of licence. Section 17 (3) (b) laid down the condition under which the licensing authority can suspend or revoke the licence if the licensing authority deems it necessary for the security of the public or public safety. This case certainly be a ground for suspension or cancellation of licence if it establishes beyond all reasonable doubts that same one's action really treats the public peace and public safety but in the instant case there is no occasion when the present appellant has been involved in such act. Similarly clause (d) of subsection 3 of section 17, says that licence can be either suspended or cancelled if any of the condition of the licence has been contravened. Here also there is no such



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charge against the appellant.

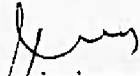
Thus it is seen that all the cases against the appellant has been lodged mainly due to dispute relating landed property of family and it is not proved that the appellant was involved in any criminal activities what is more had there been any criminal antecedent of the appellant, the appellant could not have been granted three arms licences by the licencing authorities because arms can not be used as ornaments rather it is an important instrument for personal defence.

For the reasons aforesaid, the impugned order of D.M. Gopalga is not sustainable in the eyes of law because it miserably fails to adhere to the provision relating to variation, suspension and cancellation as prescribed in Arms Act- 1959. As such the impugned order of D.M. is set aside accordingly and the instant appeal is allowed.

This appeal petition is accordingly disposed of also..

Dictated & Corrected by me.

Commissioner,  
Saran Division, Chapra

  
Commissioner,  
Saran Division, Chapra | 12/2/19