

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 226/2012
Bihari Lal
Vrs.
State of Bihar
ORDER

07.04.2014.

The instant appeal is directed against the impugned order passed by District Magistrate, Siwan in Misc. Arms Case No. 24/10-11 on 27.03.2012

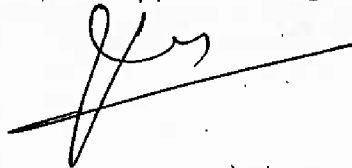
The brief facts of the case are that the appellant Bihari Lal S/o Late Rajendra Prasad R/o Main Road, Mairwa, P.S.- & Dist-Siwan, an Arms licensee, having Arms licence No. 34/1985 for Rifle. The further case is that the appellant's said licence was cancelled by the D.M. Siwan vide memo No. 446/Arms dated 06.04.2005 as he failed to file an affidavit to the effect that no criminal case was pending against him and for this general notice was issued to all licensee of the district to comply with the said direction of the District Magistrate. As the appellant failed to comply with the above direction till the stipulated period, his said licence was cancelled. Feeling aggrieved by the said order, the appellant approached the Hon'ble High Court vide CWJC No. 13346/2011 and the said case was disposed of vide order dated 28.11.2011 with a direction to the D.M. to dispose of the matter within two months. Pursuant to that order, the appellant again approached, the D.M. Siwan and after that a Misc. Arms Case No. 24/10-11 was initiated which was disposed of vide order dated 27.03.2012, whereby the case was dismissed.

On being aggrieved by and dissatisfied with the aforesaid order of D.M. Siwan dated 27.03.2012, the appellant has come before this court.

Heard the parties. ►

The learned counsel appearing on behalf of the appellant submitted that the impugned order is illegal, bad and erroneous as the D.M. without giving any opportunity of hearing has passed the illegal order. He further submitted that pending of a criminal case against the licensee and even the observations made by the Hon'ble High Court has not been honoured or considered by the learned D.M. Siwan as such the impugned order be set aside.

The learned spl p.p. appearing on behalf of D.M. , Siwan submitted that as the appellant failed to comply with the direction issued by the D.M. his licence was cancelled. And when the appellant again approached the D.M. pursuant to the direction of Hon'ble High Court for restoration of his licensee , his said prayer was also dismissed with reasoned and speaking order. So, this appeal having no merit, fit to be dismissed.



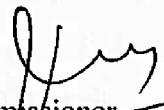
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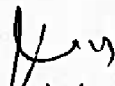
Considering the facts and circumstances of the case and on going through the impugned order of D.M. Siwan dated 27-03.2012, it appears that initially the appellants Licence was cancelled in the year 2005, for his alleged failure of non-compliance of the order issued by the D.M. to file an affidavit as to whether any criminal case was pending against him or not. It also transpires from the impugned order of the D.M. that at the relevant time a criminal trail vide No.74/05 was pending in Fast Track court. Siwan which was disposed of on 07.10.2009 where in this appellant along with other co-accused of Mairwa P.S. Case No. 55/99 were acquitted. This clearly shows that in the year 2005. Criminal case vide Mairwa P.S. Case No. 55/99 was pending for trail before the competent court. However, the appellant has since been discharged from the said criminal case now and in spite his case was not considered by the learned D.M., Siwan what he ought to have considered independently and without any prejudice.

Thus, for the reason aforesaid, the impugned order of D.M. Siwan is set aside and the matter is remitted back for re-consideration in the light of the fact that the appellant has since been discharged from criminal case and at present no criminal case is pending against him and he is also in need of arms for safety of his life and property .

Accordingly, this appeal is allowed.

Dictated & Corrected by me.


Commissioner,
Saran Division, Chapra
27/4/2014


Commissioner
Saran Division, Chapra
27/4/2014