

**In The Court of Commissioner, Saran Division, Chapra**  
**Arms Appeal No. 164/2015**  
**Ram Babu Rai & ors.**  
**Vrs.**  
**The State of Bihar & ors.**  
**ORDER**

30.04.2016 - The instant appeal petition is directed against the impugned order passed by D.M. Saran as contained in memo No. 02/Arms dt. 11.08.2014 whereby and whereunder the arms license No. 25/99 of Rifle and license No. 113/04 of Revolver issued in the name of Ram Babu Rai and license No. 126/90 of Rifle issued in the name of Lal Babu Rai were cancelled.

The brief facts of the case are that a proceeding against the above named appellants were initiated by D.M. Saran following a report of S.P. Saran vide letter No. 6744 dt. 17.11.2009 wherein it was mentioned that action regarding the cancellation of the arms license, existing in the name of the appellants be taken forthwith for the reason that they have been made as named accused in Doriganj P.S. case No. 56/2007 u/s 147/148/149/353/332/307/189/337/338/323/427/120(B) of IPC and section 27 of Arms Act. Thereafter, the learned D.M. suspended the said license and notices were issued show cause vide memo No. 2331 dt. 15.12.2009 as to why not there licenses be cancelled. Then the said licensees appeared before the D.M. Saran and finally the licensing authority holding that as charges against the licensees have been found true in investigation and the case arising out of Doriganj P.S. case No. 56/2007 was pending for disposal before the trial Court, it would not be in accordance with law to revoke the suspension order passed earlier and accordingly cancelled the said licenses vide order dt. 11.08.2014. Aggrieved by the said order, the aforementioned two appellants have preferred a common appeal application before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellants submitted in details about the entire sequence of events leading to registration of the Doriganj P.S. case No. 56/2007 against the appellants under the various sections of IPC and subsequently cancellation of their arms licenses and eventually the cancelled of licenses. He further argued at length to highlight the point that the appellants did not contravene any provision of the Arms Act as envisaged in section 17 (3) and further strongly submitted that the impugned order has been passed without applying the judicial mind. He also pleaded that mere pendency of a criminal case against the appellants can not be a ground for cancellation of license and in support of his pleading he also quoted the relevant portion of a reported judgment (1972 ALJ-573-Massiuddin Vrs Commissioner, Allahabad). He also submitted that the appellants have not been ever charged for misuse of the arms nor any complaint has ever been lodged by any member of the weaker section against the appellants. He lastly submitted that as the impugned order is legally not sustainable, the same be set aside and this appeal petition be allowed.

The learned A.P.P appearing on behalf of D.M saran, the licensing authority while vehemently opposing the contentions forwarded by the counsel for the appellants, submitted that the impugned order is cogent, reasoned and having no infirmity as such the same must be upheld. He further submitted that as the appellants have not yet been discharged from the said criminal case and the said criminal case is still under trial it would not be legally proper to revive the cancelled arms licenses of the appellants. He lastly submitted that this appeal petition being devoid of any merit is fit to be dismissed

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that the appellants are the named accused in Doriganj P.S. case No. 56/2007 registered under various sections of IPC and the said case has been also found true, at the level of superior police officers in their supervision reports. It is also an admitted fact by the learned counsel for the appellants that a trial arising out of the said P.S. case is still pending in the competent trial Court. This obviously shows that the appellants have not yet been discharged of the charges which have been found true against them under various sections of I.P.C during investigation of the case. It also appears from the impugned order that the licensing authority has expressed his inability to revoke the said order with respect to the licenses, during the pendency of the criminal trial against the appellants I do not find any illegality or infirmity in the said findings of the licensing authority who has been exclusively vested with the power to suspend or cancel the licenses under certain specified conditions and circumstances subject to his satisfaction as enumerated in the relevant section of the Arms Act. The only contention raised by the learned counsel for the appellants that no previous incident of any misuse of arms have been reported against the appellants nor any criminal case lodged and under such circumstances merely institution of of a criminal case should not be a ground for cancellation of licenses standing in the name of appellants. I do not find much force in this assertion in view of the fact that the appellants have failed to convince the licensing authority, beyond all reasonable doubts, regarding their claim that they are entitled to possess arms during pendency of the criminal trial

Thus, for the aforementioned reasons, I do not find any good ground to make any interference with the impugned order dated 11.08.2014 passed by D.M. Saran and accordingly the same is upheld and this appeal petition being devoid of any merit is dismissed. However, it is observed that once the appellants are discharged of their criminal liabilities by the trial court the appellants are at liberty to approach the licensing authority, the DM, Saran with a fresh prayer for revocation of their cancelled arms licence.

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

Dictated and Corrected by me.

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30-4-16  
Commissioner  
Saran Division, Chapra

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Commissioner  
Saran Division, Chapra.