

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18419 of 2011

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M/S Hindustan Arms Store Through Its Co-Proprietor Kali Charan Sharma S/O
Nitya Nand Sharma Resident Of Mohalla- Bekapur Near Sabzi Bazarm P.S. -
Kotwali, Distt-Munger

.... Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home,
Government Of Bihar, Patna
2. The Principal Secretary, Department Of Home, Government Of Bihar, Patna
3. The Commissioner, Munger Division, Munger
4. The District Magistrate, Munger
5. The Superintendent Of Police, Munger
6. The Arms Magistrate, Munger

.... Respondents

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Appearance :

For the Petitioner : M/s Brajesh Kumar and
Amarjeet Prabhakar, Advocates
For the State : M/s Anjani Kumar, AAG 6 and
Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 08-09-2015

I.A. No. 7514/2015

I.A. No. 7514 of 2015 has been filed for recalling of
the order awarding cost of Rs. 5000/- upon the State vide order dated
25.8.2015

In view of the statement made in aforesaid interlocutory
application the part of the order dated 25.8.2015 in that regard stands
recalled.

C.W.J.C. No. 18419/2011

A counter affidavit has been filed on behalf of the State.

Heard learned counsel for the petitioner and the State.

The order dated 10.04.2010 passed by the licensing authority-cum-District Magistrate, Munger, as well as the appellate order dated 11.8.2010 passed by the Divisional Commissioner, Munger in Arms Appeal No. 18/2010, contained in Annexures 6 and 10 respectively, are sought to be challenged in this writ application.

From the order contained in Annexure 6 it appears that the petitioner's licence bearing no. 3/1969 granted for sale of arms was suspended and obviously that part of the aforesaid order was under challenge in the appeal also.

It appears from Annexure 6 that the same has been passed in view of a self incriminating statement given by an accused in a case also stating regarding the role of the petitioner and others in illegal sale and purchase of the arms and, accordingly, on such allegation the aforesaid licence of the petitioner was suspended with immediate effect. The appellate authority has also upheld the decision of the licensing authority and has rejected appeal filed by the petitioner.

A supplementary counter affidavit has been filed on behalf of the respondent no. 1.

Mr. Anjani Kumar, learned A.A.G. 6 has stated very fairly stated that though the petitioner was suspected in dealing in illegal arms in Muffasil (Munger) Police Station Case No. 305/09 on the



basis of the confessional statement of the FIR named accused but the matter was handed over to the CID, Bihar, Patna and after proper investigation and verification it could not find sufficient material against the petitioner. Therefore, the case against the petitioner has been closed and letters dated 04.10.2012 and 28.08.2015 have been written by the Superintendent of Police(E), CID, Bihar, Patna to the Superintendent of Police, Munger appended as Annexures A and B to the supplementary counter affidavit. It is submitted that in above view of the matter, chargesheet could not be filed against the petitioner in the aforesaid case. It has further been stated in paragraph 8 of the supplementary counter affidavit that the petitioner has not been made accused in any other criminal case in the District of Munger as per the reports received from the S.H.O. of all the Police Stations of the District of Munger.

In my view, after such statement having been made in the supplementary counter affidavit and the confessional statement of the FIR named accused being the sole basis for passing the impugned orders and the stand of the CID that nothing could be found against the petitioner in the aforesaid criminal case, the writ petition is fit to be allowed as there is no case pending against the petitioner and there is nothing in the supplementary counter affidavit showing that there is any other case pending against him.

Ordered accordingly.

The orders impugned contained in Annexures 6 and 10 are quashed and set aside, as a consequence of which, the licence of the petitioner would be restored and renewed on submission of necessary requisites.

(Dr. Ravi Ranjan, J)

Spd/-

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