

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18370 of 2011

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M/S S.L. Sharma And Sons Through Its Joint Proprietor Suresh Prasad
Sharma S/O Late Sunder Lal Sharma Resident Of Mohalla-Bekapur, 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 : Mr. Brajesh Kumar, Advocate

For the State : Mr. Ashok Kumar Choudhary, AAG 13

Mr. Avabubdra Kumar Jha, AC to AAG 13

For the Union of India: Mr. S.D. Sanjay, ASG

Mr. Shyam Bihari Singh, CGC

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-09-2015

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 29.09.2010 passed by the Divisional Commissioner, Munger in Arms Appeal No. 17/2010, contained in Annexures 6 and 9 respectively, are sought to be challenged in this writ application.

From the order contained in Annexure 6 which is under challenge, it appears that the petitioner's licence bearing no. 1/1969 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 criminal 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 the appeal filed by the petitioner.

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

Mr. A.K. Choudhary, learned counsel for the State, 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 after initial investigation in the same 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 11 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 that there is anything against him.

Ordered accordingly.

The orders impugned contained in Annexures 6 and 9 are quashed and set aside and as a consequence thereof, let the licence of the petitioner be restored and renewed on submission of necessary requisites.

(Dr. Ravi Ranjan, J)

SC/-

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