

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21694 of 2014

Mathura Prasad @ Mathura Prasad Yadav, S/o Sri Parmeshwar Yadav, Resident of Village Bali, P.S. Warsaliganj, District Nawadah, presently residing at V.I.P. Colony, P.S. Nawadah Town, District Nawadah.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Divisional Commissioner, Magadh Division at Gaya.
3. The District Magistrate, Nawadah.
4. The District Arms Magistrate, Nawadah.
5. The Superintendent of Police, Nawadah.
6. The Sub Divisional Police Officer, Nawadah Sadar, District Nawadah.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Respondent/s : Mr. Rabindra Kumar Priyadarshi, SC-32

Mr. Kundan Kumar, AC to SC-32

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-06-2016

Heard parties.

The petitioner is aggrieved by Annexure-6 which is an order dated 23.08.2012/29.08.2012 by which firearms licence of the petitioner has been cancelled on the ground of his involvement in a criminal case registered under Section 307 and other allied Sections of the Indian Penal Code. He also assails the order dated 25.09.2014 passed by the Commissioner, Magadh Division, Gaya in Arms Appeal No.234/2012 dismissing the appeal and upholding the order passed by the licensing authority.



It is contended on behalf of the petitioner that he has been made accused in Nawada Town P.S. Case No.561/2011 which was a counterblast to the original Nawada Town P.S. Case No.560/2011. That apart, his firearm was seized but later on it was released by the court concerned after the report was given by the competent authority that there was no firing from the petitioner's weapon. Still the licence of the petitioner has been cancelled.

Per contra, learned counsel for the State submits that of course his firearm was released after obtaining the report of the expert that there was no firing from the petitioner's weapon but his involvement in the case cannot be ruled out on the basis of preponderance of the probabilities.

In my view, since no final sufficient materials were on the record indicating towards misuse of the firearm by the petitioner, there was no justification for cancellation of licence as in the present case suspension of the same till the final result of the concerned criminal case would have sufficient. A reference in this regard is made to a decision of the Division Bench of this Court rendered in ***Mahesh Sharma Vs. State of Bihar [2008 (3) PLJR 186*** holding that licence may remain suspended and final decision regarding cancellation could have been taken after the final result of the criminal trial.

Accordingly, this writ application is being disposed of

with an observation that the petitioner’s licence would be treated to be under suspension till the conclusion of the criminal trial concerned. After final pronouncement in the criminal trial, the authority concerned would be at liberty to take a final decision with regard to cancellation or otherwise or revocation of suspension of the licence of the petitioner, accordingly, depending upon the nature of such judgment.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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