

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6026 of 2008

=====

Purushottam Sharma, Son of Sri Sidheshwar Sharma, Resident of New Area, P.S.-Town, District-Nawada.

.... Petitioner.

Versus

1. The State of Bihar.
2. The Commissioner, Magadh Division, Gaya.
3. District Magistrate, Nawada.

.... Respondents.

with

=====

Civil Writ Jurisdiction Case No. 17179 of 2007

=====

Purushottam Sharma, Son of Sri Sidheshwar Sharma, Resident of New Area, P.S.-Town, District-Nawada.

.... Petitioner.

Versus

1. The State of Bihar.
2. The Commissioner, Magadh Division, Gaya.
3. District Magistrate, Nawada.

.... Respondents.

=====

Appearance :

(In CWJC No.6026 of 2008)

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.

: Mr. D.N. Tiwari, Adv.

For the Respondents: Md. Naseem Mukhtar, AC to AAG-12

(In CWJC No.17179 of 2007)

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.

: Mr. D.N. Tiwari, Adv

For the Respondents: Mr. Amit Kumar Jha, AC to AAG-4

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-11-2016

Heard parties.

In view of the involvement of the petitioner in



criminal cases both arm licences were first suspended and, thereafter, cancelled vide Annexure-9 and 9/1 by order dated 20.04.2007 passed by the District Magistrate, Nawada-cum-Licensing Authority. The appeal filed against both the orders were dismissed vide order dated 09.08.2007 passed in Arms Appeal Nos. 38 of 2007 and 39 of 2007 passed by the Commissioner, Magadh Division, Gaya, as contained in Annexure-10.

It is contended on behalf of the petitioner that so far the Nawada P.S. Case No. 39 of 2007 is concerned which was instituted under Sections 147, 148 and 160 of the Indian Penal Code and Section 27 of the Arms Act, the petitioner has been acquitted of the charges vide judgment dated 09.01.2012. So far the Nawada P.S. Case No. 263 of 2006 is concerned which was instituted under Sections 147, 148, 438, 341, 323 and 378 of the Indian Penal Code, the same has also been consigned by the Lok Adalat as all the provisions were compoundable, therefore, the order of cancellation should be revoked and licence should be renewed.

Counter affidavit has been filed on behalf of the State stating that at the time of hearing the order of cancellation, the petitioner was charged with serious criminal allegations and, as



such, the order cannot be faulted with.

Learned counsel for the State may be right in saying so, however, question would be, if any allegation is made upon which the First Information Report is lodged it can at best be understood after charge-sheet is submitted in that case and trial is proceeding that the allegation is prima facie true but the allegation cannot be finally accepted to be proved as there may be some substance in the defence a reference in this regard is made to a decision of Division Bench rendered in the case of **Mahesh Sharma vs. State of Bihar [2008(3) PLJR 186]**. A Full Bench of this Court in the case of **Kapildeo Singh vs. The State of Bihar & Ors. [AIR 1987 Pat 122]** has also held that simply registering First Information Report does not mean that allegations are true, therefore, in the facts and circumstances of the case, if the Licensing Authority is of the opinion that the fire arm in the hand of the petitioner would be detrimental for public peace then he can pass order of suspension of licence.

In the present case also, though there were allegations against the petitioner and two cases were filed but most of the allegation except Section 27 of the Arms Act were compoundable, therefore, in my considered view, the Licensing Authority could have suspended the licence and waited for final



decision in the trial.

In my view also, the cancellation at that stage was not justified. Accordingly, let the order of cancellation be deemed to be an order of suspension having been passed by the Licensing Authority. In view of the fact that the petitioner claims that he has been acquitted of the charges in one of the cases and the second case has also been consigned by the Lok Adalat, he would be at liberty to approach the Licensing Authority for revocation of suspension order which should be considered by the Licensing Authority on its own merit and in accordance with law but without being prejudiced by its earlier orders or the order passed by the appellate authority.

As a result, these writ petitions stand disposed of with a direction to the licensing authority to take a final decision in the matter if approached by the petitioner along with a copy of this order within a period of three months from the date of filing of such application.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.01.2017
Transmission Date	NA

