

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13802 of 2014

=====

Lokesh Kumar Singh, son of Late Lakshamipati Singh, resident of Village- Dhanraj
Tola Barahiya, P.S.- Barahiya, District- Lakhisarai

.... Petitioner

Versus

1. The State of Bihar
2. The Divisional Commissioner, Munger
3. The District Magistrate, District- Lakhisarai
4. The District Superintendent of Police, Lakhisarai, District- Lakhisarai

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Siya Ram Sahi, Advocate
Mr. Ram Sevak Choudhary, Advocate
For the Respondent/s : Mr. Manoj Kumar Ambastha, G.P.-14
Mr. Sanjay Kumar Pandey, Act to GP-14

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 18-04-2016

Heard parties.

The petitioner's licence was cancelled vide order dated 11.01.2012 passed by the licensing authority, as contained in Annexure-4, on the ground of his involvement in Barahiya P.S. Case No.51/2004 which was registered under Sections 363, 365 and 374 of the Indian Penal Code and later on, Section 302 of the Indian Penal Code was also added. Thereafter, an appeal has also been filed which has been dismissed vide Annexure-6 dated 13.03.2016 by the Divisional Commissioner, Munger.

The petitioner claims that he was involved in two criminal cases but in both the cases he has been acquitted of the

charges.

The sole question is being raised by the petitioner that lodgment of the FIR does not necessarily mean that the petitioner has actually participated in the crime. That can be treated to be materials which were available before the licensing authority for its prima facie satisfaction but was not conclusive piece of documents showing the petitioner's involvement. Thus, the purpose could have been achieved by suspending the firearm licence in place of cancellation as in that case also, the petitioner would have been required to surrender his arms. Suspension may have awaited final result of the trial and, thereafter, order could have been passed either for revocation of licence or for finally cancelling the licence depending upon the result of the trial as well as other materials, if any, which would be available at that point of time for consideration of the issue. The petitioner places reliance upon a decision of the Division Bench of this Court rendered in *Mahesh Sharma Vs. The State of Bihar and Ors. [2008 (3) PLJR 186]*.

A counter affidavit has been filed on behalf of the State, however, there is no answer to the aforesaid proposition as there is already a decision of the Division Bench in this regard.

In the facts and circumstances of the case, the orders passed by the licensing authority as well as the appellate authority are

modified to the extent that it would be deemed to have been order of suspension only in view of the decision rendered in Mahesh Sharma (Supra).

The petitioner claims that three cases are pending against him. In two cases, he has already been acquitted of the charges but one case under Arms Act is still pending as per the counter affidavit filed by the State which has not been denied by the petitioner.

In case the petitioner is acquitted of the charges then he would be at liberty to approach before the licensing authority for revocation of suspension of licence. In such a situation, an order in accordance with law would be required to be passed by the licensing authority considering the relevant facts and materials available at that point of time in favour or against the petitioner.

Since firearm has already been deposited by the petitioner, its release would be subject to the final order which would be passed by the licensing authority in such situation.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

U			
---	--	--	--