

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 58/2015
Md. Nemtullah
Vrs.
The State of Bihar
ORDER

The instant appeal petition is directed against the impugned order as contained in Memo No. 831/arms dt. 06.04.05 whereby and whereunder the appellants arms licence of D.B.B.L. Gun having licence No. 35/03 was cancelled.

The brief facts of the case are that the appellant Md. Nemtullah, S/o Md. Esrayal, R/o Vill-Bhopatpur, P.S.-Jamo Bajar, Dist-Siwan was holding an arms licence. Further case is that the said licence of the appellant was cancelled for his alleged failure to comply with a general notice published in the news paper, wherein it was directed by the learned D.M. Siwan, to all licence holder of the district to file an affidavit mentioning therein as to whether if there any criminal case was lodged against him or not and further if any case was lodged then to mention the details thereof.

Feeling aggrieved by and dissatisfied with the aforesaid order passed by learned D.M. Siwan, the appellant has preferred instant appeal petition before this Court.

Heard the leaned counsel for the parties.

The learned counsel for the appellant in his brief argument stated that although the appellant's licence was cancelled in the official record but the same was not communicated to him and even the said licence had been renewed thereafter also for many years and ultimately he was informed by the arms section of the office of D.M. Siwan that his licence had already been cancelled way back in the year 2005. The learned counsel further submitted that as the appellant's approached the renewal of his licence for another year he came to know about the cancellation of his licence. He further argued that as there was no fault on the part of the appellant, he can not be allowed to suffer for the fault of others and as such his licence may be restored.

The learned A.P.P., appearing on behalf of D.M. Siwan submitted that huge numbers of licence were cancelled by the D.M. Siwan in the years 2005 and due to mismanagement in keeping the records properly, this type of situation arose wherein the licence cancelled earlier were renewed subsequently for many year due to sheer negligence of the staffs of the district Arms section. He further submitted that this type of cases needs to be remanded back to D.M. Siwan for passing a fresh order in accordance with law after carefully examining the official records and also affording opportunity of hearing to the parties.

Considering the facts and circumstances of the case, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is seen that although, the petitioner's licence was cancelled in the year 2005, but the same has been renewed thereafter, for many years certainly this is a very serious lapse on the part of concerned authority. In fact, the appellant can not be held responsible for such renewal of his cancelled licence and for such misdeeds of others appellant can not be allowed to suffer.



For the aforementioned reasons, the impugned order of D.M. Siwan is set aside and the case is remitted back to D.M. Siwan for fresh consideration in accordance with law after affording opportunity of hearing to the appellant. Meanwhile, the learned D.M. is directed to examine also as to whether the appellant has deposited his arms or not till date. The learned D.M. is further directed to closely inspect the functioning of the arms section of the district and identify the employee and official responsible for committing such mistake in which cancelled arms licence has been renewed and to further ensure suitable disciplinary action against them.

With the aforesaid observation and direction this appeal petition is disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.