

**In The Court of Commissioner, Saran Division, Chapra**  
**Arms Appeal No. 75/2012**  
**Anwar Husain**  
**Vrs.**  
**The State of Bihar**  
**ORDER**

The instant appeal is directed against the impugned order passed by District Magistrate, Gopalganj in Arms case No. 117/2010 on 14.10.11 whereby and whereunder the two licences with respect to two Arms standing in the name of the appellants viz licence No. 85/84 and licence 39/1990 were revoked.

The brief facts of the case are that the appellant Anwar Husain, S/o Haji Mohammad Usman, R/o Vill-Kajipur, P.S.-Phulwariya, Dist-Gopalganj was holding two Arms licences with respect to N.P. Bore Rifle and D.B.B.L. Gun. Further case is that against the appellant two cases instituted viz Phulwariya P.S. case No. 35/04 dt. 11.04.2004 under different section of Arms Act. and again another case being instituted in the same police station vide Phulwariya P.S. case No. 25/10 dt. 18.03.2010 under different section of I.P.C. This led to sending of report by SDO, Hathua and officer incharge Phulwariya P.S. to the District Magistrate, Gopalganj for revocation of the said licences in order to conduct free and fair poll of Bihar Assembly Election-2010. Thereafter, the learned D.M. Gopalganj acting on the said recommendation suspended the said licences vide order dt. 09.10.2010 and also issued show cause notice to the appellant. Appellant filed show cause reply and finally after hearing the matter the said show cause reply when found to be unsatisfactory, the said licences of the appellant were revoked vide order dt. 14.10.2011.

Feeling aggrieved by and dissatisfied with the aforementioned cancellation order passed on 14.10.2011, the appellant has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant in his detailed argument submitted about the whole course of events leading to firstly suspension of the licence and ultimately cancellation of the same by D.M. Gopalganj due to criminal cases lodge against the appellant. He further submitted that the impugned order passed by the District Magistrate without considering the show cause explanation filed by the appellant and he totally based his finding on the police report in which it was mentioned that the criminal cases pending against the appellant was at trial stage before judicial Magistrate, Gopalganj. Further submitted that the impugned order is mechanical in nature and he further said that there was no any adverse report against the appellant regarding misuse of the arms. The learned counsel also highlighted that the appellant is ready to obey all conditions imposed by learned Court and also ready to file undertaking in this regard duly affidavit as he badly needed arms for his personal safety and security. The learned counsel lastly submitted that the appellant has been acquitted from criminal case in session Trial No. 53/05 from the Court of ADJ-4, Gopalganj vide order dt. 24.07.2015 and also placed the certified copy of said order in the support of his claim. At last he strongly submitted that since the appellant has been acquitted from the criminal liability his licence cancelled earlier, needs to be restored.



The learned A.P.P. appearing on behalf of the state, while opposing, the arguments advanced by the learned counsel for the appellant, submitted that appellant's licences have been cancelled pursuant to the recommendation made by SDM, Hathua and O.C. Phulwariya and also S.P. Gopalganj as two criminal cases were already instituted against the appellant in local P.S. under different sections Arms Act and I.P.C. He further submitted that the learned D.M. Gopalganj has passed detailed and reasoned order having no illegality as such the said order is fit to be upheld and this petition being completely devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the appellant's licence for arms has been cancelled on the report of S.P. Gopalganj which was felt necessary for holding free and fair poll of Bihar Assembly Election-2010 and since the appellant was accused in two criminal cases and trial of the said cases were already in progress. I find that the order of revocation of licence of the appellant is absolutely justified for the accusations levelled against appellant. To this extent the impugned order is valid, reasoned and proper having no illegality as the said order has been passed after carefully considering each and every details mentioned in the report of S.P. Gopalganj. It is also pertinent to mention here that at present, before this Court the sole contention of the appellant is that since he has been acquitted by the competent Court from the criminal charges levelled against him, his cancelled licences need to be restored as the appellant apprehend threat to his safety and security. I do not find any justification in the said plea of the appellant for the reason that the said point has not yet been raised before the licencing authority, the D.M. In fact this new point, which has not been raised earlier before the licencing authority, needs to be considered first by the licencing authority under the changed circumstances of the case. It is seen that the appellant has been acquitted from the criminal charges vide order dt. 24.07.2015 but the instant appeal petition has been preferred against the order passed by D.M. on 14.10.2011. during which cases against the petitioner were under trial stage. Thus, it becomes quite apparent that licencing authority is still not aware about the acquittal from the criminal charges. For the aforesaid reason this Court finds difficulty in considering and dealing with the new facts which has not been brought before the D.M. Gopalganj for consideration. Moreover it is for the licencing authority exercising the statutory power vested under the Arms Act is competent to look into the new fact and take decision there to if the appellant becomes aggrieved any way by the new order passed by the D.M. then he can approach the appellate authority for remedy there of.

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

Dictated and Corrected by me.

Commissioner  
Saran Division, Chapra.

Commissioner  
Saran Division, Chapra.