# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.9466 of 2015**

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Rabindra Kumar Singh, S/o Late Vishwanath Prasad Singh, resident of Village Sadanandpur, P.S. Ballia, District- Begusarai.

.... .... Petitioner

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Munger.
3. The District Magistrate, Begusarai.
4. The Superintendent of Police, Begusarai.
5. The Sub. Divisional Officer, Ballia, District- Begusarai.
6. The Sub. Divisional Police Officer, Ballia, District: Begusarai.
7. The Officer-in-Charge, Ballia P.S., District: Begusarai.

.... .... Respondents

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**Appearance :**
For the Petitioner : Ms. Sunita Kumari, Advocate
For the State : Mr. Rewti Kant Raman, A.C. to G.P. 31

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**
ORAL JUDGMENT
**Date: 24-11-2015**

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 25.04.2015, as contained in Annexure 3, passed by the Commissioner, Munger Division in Arms Licence Appeal No.99 of 2015 by which he has dismissed the appeal of the petitioner preferred against the order dated 17.12.2014, as contained in Annexure 2, passed by the District Magistrate, Begusarai which is also under challenge in this writ application by which he has rejected the petitioner's application for grant of arms licence of N.P. bore category.

It appears from the order impugned, as contained in

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Annexure 3, that the appeal has been dismissed on the ground of limitation, however, only one sentence has been devoted stating that the appellant has not been able to set forth any sufficient reason for condoning the delay. The petitioner has brought the application filed for condoning the delay in preferring the appeal by way of Annexure 4 appended with the supplementary counter affidavit. It appears that the petitioner has taken a ground that the matter was finally heard by the District Magistrate on 28.10.2014 but no date for pronouncement of the order was ever fixed or communicated to the petitioner and, thereafter, the petitioner fell ill and remained under the treatment of a doctor. Necessary prescriptions were appended with petition for condoning the delay. Thereafter, when he came to know about the date of passing of order, he obtained a certified copy by applying it on 26.03.2015 which was supplied to him on 31.03.2015 and, thereafter, the appeal was preferred after a delay of about three months. However, the grounds raised by the petitioner have not been discussed anywhere by the appellate authority. It is not recorded as to why the grounds raised by the petitioner for condoning the delay were not found to be tenable. A simple finding has been recorded that no satisfactory reason could be set forth by the petitioner for condoning the delay.

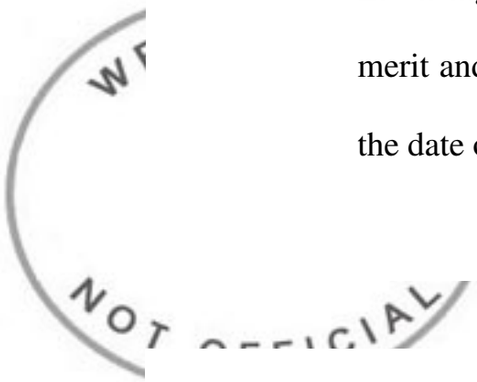
In my view, such order cannot be sustained in law

keeping in view the explanation submitted by the petitioner and the decision of the Apex Court in **S. Ganesharaju Vs. Narasamma** [**(2013)11 Supreme Court Cases 341]** where the issue of condoning the delay of about 53 days was there and the Apex Court has come to the conclusion that such delay would certainly not fall in the category of exorbitant or inordinate delay and that should be condoned in a routine manner. In my view, the present case also falls under such category in which the delay should have been condoned by the appellate authority and the matter should have been decided on its own merit.

Ordinarily, in such a situation, this Court would have remanded back the matter to the appellate authority for taking a fresh decision, however, from the perusal of the order passed by the Licensing Authority, it appears that the same also suffers from the serious error as the refusal of arms licence is on the ground that the petitioner has failed to produce any evidence regarding threat perception upon him. This issue has been considered in detail in **Manish Kumar Vrs. State of Bihar and other analogous cases [2015(4) PLJR 212**] and it has been held that such ground does not fall into any category described under Section 14 of the Arms Act, 1959 for the purpose of refusal of arms licence. Accordingly, the orders impugned as contained in Annexures 2 and 3 are quashed and

set aside. The matter is remitted back to the District Magistrate-cum-Licensing Authority, Begusarai for taking a fresh decision on its own merit and in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

This writ application stands allowed.



**(Dr. Ravi Ranjan, J)**

Sanjay-II/-

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