

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.520 of 2014

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Vijay Prasad, son of Late Ram Lakhan Prasad, resident of Mohalla- Patel Nagar Hilsa, P.S. Hilsa, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Patna Division, Patna.
2. The District Magistrate -cum- Licensing Authority, Nalanda at Biharsharif.
3. The District Arms Magistrate, Biharsharif.
4. The Superintendent of Police, Nalanda at Biharsharif
5. The Sub-Divisional Magistrate, Hilsa (Nalanda)
6. The Sub-Divisional Police Officer, Hilsa (Nalanda).
7. The Officer in-Charge, Hilsa (Nalanda).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shankar Kumar

For the Respondent/s : Ms. Jahan Ara, AC to AAG-5.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 07-04-2015

Heard Mr. Shankar Kumar, learned counsel appearing

on behalf of the petitioner and learned counsel for the State.

The petitioner prays for issuance of a writ in the nature of mandamus commanding the District Magistrate, Nalanda –cum- Licensing Authority under the Arms Act, 1959 and ‘the Rules’ framed thereunder to order for release of N.P. Bore Rifle No.72289 of 30.06 bore in favour of the petitioner who is holder of Arms Licence No.01 of 2013 issued on 10.10.2013 by the Licensing Authority.

The facts of the case briefly stated is that the father of the petitioner was a licence-holder and upon his death the arms licence was deposited with the Arms Dealer, namely, M/s



Jayshree Arms Stores, Hilsa in the district of Nalanda. The petitioner thereafter applied for transfer of the licence held by his father and upon being refused moved this Court in CWJC No.5620 of 2013 which was allowed with a direction to the District Magistrate to order for transfer of the licence held by the father of the petitioner in his favour. It is following the order passed by this Court the licence was transferred in the name of the petitioner bearing Licence No.01 of 2013 dated 10.10.2013. Upon receipt of the licence that the petitioner filed an application before the District Magistrate, Nalanda on 25.10.2013 for transfer of the N.P. Bore Rifle No.72289 of 30.06 bore which stood deposited with M/S Jayshree Arms Store, Hilsa consequent upon the death of his father. Though the application was filed on 25.10.2013 it has not been disposed of and being aggrieved the petitioner is before this Court.

I have heard learned counsel for the parties and I have perused the records.

In the nature of the order which Court proposes to pass it would not require filing of the counter affidavit. Whereas section 21 of the Arms Act provides for deposit of arms in certain circumstances and also includes a circumstance where a licence-holder dies, sub-section (2) of section 21 further provides that where a licence has been deposited upon the death

of the licence-holder, his legal representative would be entitled to receive back the same on his becoming entitled to by virtue of this Act or any other law for the time being in force. It is not in dispute that the petitioner is a holder of Licence No.01 of 2013 hence he is fully entitled for return of the rifle which remains deposited with the arms dealer. It was a routine order which was required to be passed by the District Magistrate but for the delay the petitioner is before this Court.

Having heard learned counsel for the parties and taking note of the statutory provisions as also considering the fact that the petitioner is a holder of arms licence, this Court directs the District Magistrate, Nalanda to pass appropriate order for return of the N.P. Bore Rifle No.72289 of 30.06 bore which stands deposited with the arms dealer, namely, Jayshree Arms Store, Hilsa, District- Nalanda in favour of the petitioner. Such order would be passed by the District Magistrate within four weeks from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

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