

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11196 of 2013

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Ashok, Kumar Singh S/O Late Arjun Singh Resident Of Brahampur, P.S-
Brahampur, District- Buxar.

.... Petitioner

Versus

1. The State Of Bihar
2. Principal Secretary, Home, Government Of Bihar, Old Secretariat, Patna.
3. Director General Of Police, Government Of Bihar, Old Secretariat, Patna
4. District Magistrate, Buxar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Surendra Kumar Singh,
Mr. Avinash Shekhar, Advocates
For the State : Mr. Manoj Kumar, A.C. to G.A.10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 21-09-2015

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 16.10.2008 passed in Arms Case Nos.516/06 and 517/06 by the Licensing Authority-cum-District Magistrate refusing the licence for revolver/pistol and N.P. Bore rifle. Both the applications were disposed of by a common order as contained in Annexure 9. It appears that the order passed on 16.10.2008 has been challenged by the petitioner by filing the present writ application in the year 2013, however, the petitioner claims that the order was never communicated to him and he got the information only after the application was filed by him under the Right to Information Act that his request for grant of

arms licence has been rejected and, thereafter, he has challenged the aforesaid order.

A counter affidavit has been filed on behalf of the respondent no.4 appending therewith Annexure C which is attendance slip filed by the petitioner before the District Magistrate on 18.09.2008 to show that the petitioner was granted sufficient opportunity before passing the order. A copy of the order has also been appended as Annexure A with a note of the peon on the back of it that the order was tried to be communicated to the petitioner, hence, the same could not be communicated to him as he was not present at his residence. However, it was not sated as to why a copy of the decision was not sent to the petitioner by registered post or why no second attempt was made for communicating the order.

Learned counsel for the State has submitted that it is quite clear that the petitioner has received a certified copy of the order in the year 2011 itself, however, he has filed the writ petition in the year 2013.

This is a fact that certified copy was ready on 18.08.2011 and the petitioner did not file writ application immediately but has filed on 17.06.2013, however, in my view, the aforesaid delay is not of such extent that requiring the applicant to be thrown out on the ground of delay and laches especially when the order is claimed to

be especially covered by a decision of this Court in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar)** and other analogous cases.

It appears from the aforesaid facts and circumstances that the order of refusal of licence was never communicated to the petitioner and the petitioner's contention in this regard is correct. It is further submitted by the counsel appearing for the State that petitioner has come up before this Court without availing the statutory remedy by filing appeal and, as such, he should be relegated to the appellate authority. However, it appears from the perusal of the impugned order that the refusal is on the ground of lack of producing any specific evidence regarding threat perception upon the petitioner. This issue is no longer *res integra* as this Court in **Manish Kumar (supra)** has held that the same cannot form a ground for refusal of arms licence under Section 14 of the Arms Act, 1959.

In above view of the matter, since the issue is covered by a decision of this Court itself, no purpose would be served if the matter is relegated to the appellate authority.

In my considered opinion, the order impugned is not sustainable in view of fully covered a decision of this Court rendered in **Manish Kumar (supra)**. Accordingly, the same is quashed and set aside. The matter is remitted back to the licensing authority to take a

fresh decision in accordance with law within three months from the date of receipt/production of a copy of this order.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

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