

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4251 of 2014

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Toknarayan Sharma, Son Of Late Siya Ram Das, Resident of Village and P.O. -
Lala Bhadsara, P.S. Dulhin Bazar, District - Patna

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Patna
3. The Senior Superintendent of Police, Patna
4. The Superintendent of Police, Patna
5. The Dy.S.P. Paliganj, District - Patna
6. The I.O., Dulhin Bazar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha, Advocate
 Mr. Kamala Pd. Roy, Advocate
 Mrs. Seema Kumari, Advocate
For the Respondent/s : Mr. P.N.Sahi, AAG-10
 Mr. Pramod Kumar, AC to G.A.-8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 10-12-2015

Heard learned counsel for the petitioner and the State.

The petitioner, through this writ application, seeks direction to the District Magistrate-cum-Licensing Authority, Patna to grant licence for DBBL gun for which he has already made an application in the year 2007 itself.

However, a counter-affidavit has been filed on behalf of the respondents stating that petitioner's application was already rejected by the Licensing Authority in the year 2009 itself in view of the lack of any report having been sent by the Senior Superintendent

of Police, Patna. However, the petitioner has submitted that communication as contained in Annexure-A had never reached to him and, as such, he could not challenge the same.

In above view of the matter, original record of the case concerned was called for which has been produced. From perusal of record, it appears that there is only recommendation by the District Arms Magistrate upon which the District Magistrate has put his signature. In my view, that was not sufficient as the Licensing Authority has to pass a reasoned order for rejection of the request for grant of arms licence as per Section 14 (3) of the Arms Act. It appears that there is complete non-application of mind by the Licensing Authority and, as such, the order can not be allowed to survive. That apart, it does not appear from the records that the Annexure-A was ever served upon the petitioner. It is well settled that merely passing of order in the file would not be sufficient unless the same is communicated to the petitioner by the statutory authority.

That being the situation, I would have no hesitation in holding that the order impugned is not at all sustainable in law and, as such, the same is quashed and set aside. The matter is remitted back to the Licensing Authority for taking a fresh decision in accordance with law within a period of six weeks from the date of receipt/ production of a copy of this order especially in view of the fact that in the year

2011 itself, the Senior Superintendent of Police, admittedly, has communicated to the Licensing Authority regarding his recommendation or otherwise in several matters including the petitioner.

In the result, this writ application is allowed.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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