

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6644 of 2011

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Vijay Kumar, Son Of Late Raj Kumar Rai, Resident Of Mohalla
Rambhardra, P.S. Hajipur, District - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Vaishali At Hajipur
3. The Superintendent of Police, Vaishali at Hajipur
4. The Deputy Superintendent Of Police (Headquarter) Vaishali at Hajipur
5. The Sub-Divisional Officer, Hajipur
6. The Inspector, Town Circle, Vaishali at Hajipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ansul

For the Respondent/s : Mr. Sanjeev Kumar, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 11-05-2015 Heard the parties.

The petitioner is aggrieved by the order dated 27.02.2010 (Annexure-6) passed by the licensing authority, i.e., the respondent District Magistrate, Vaishali at Hajipur in exercise of his powers under Section 14 (1)(b)(3) of the Arms Act, 1959, whereby the prayer made on behalf of the petitioner for grant of licence for rifle has been rejected.

Indisputably, the impugned order is appealable under Section 18 of the Arms Act.

Learned counsel appearing on behalf of the petitioner, while assailing the impugned order, has raised various issues of facts and law.

Though, this writ petition was filed way back on 13.04.2011 and despite pendency of the writ petition for more than four years counter affidavit has not been filed on behalf of the respondents.

This Court is of the considered opinion that the issues of facts raised on behalf of the parties must be gone into and conclusively decided by the statutory authorities and only thereafter powers of judicial review under Article 226 of the Constitution of India may be invoked. Apparently, the petitioner has got an alternative and efficacious remedy before the appellate authority under Section 18 of the Arms Act, which he has not exhausted till date.

In above view of the matter, the writ petition is dismissed with a liberty to the petitioner to file an appeal before the appellate authority under Section 18 of the Arms Act against the impugned order dated 27.02.2010 (Annexure-6).

If such an appeal is filed within a period of three weeks from today with a certified copy of the present order, then the same shall be considered and decided on its own merits without being prejudiced/influenced by the rejection of the present writ petition.

If such an appeal is filed within the aforesaid period of three weeks and, if it is found that it has become barred by limitation and, if any petition is filed for condoning such delay, then the appellate authority shall condone the delay and shall decide the matter on its own merits without dismissing the same on the ground of limitation particularly in the background that, on a bona fide legal advice, the present writ petition was filed on 13.04.2011 and that remained pending before this Court till date.

Arvind/-

(Birendra Prasad Verma, J)

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