

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14273 of 2011

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Rajesh Kumar Singh S/O Late Raj Mangal Singh R/O Vill.- Balahu, P.O.- Balahu,
P.S.- Darauli, Distt.- Siwan

.... Petitioner

Versus

1. The State Of Bihar
2. The Commissioner, Saran Division, Saran , Chapra
3. The District Magistrate, Distt.- Siwan, Siwan
4. District Arms Magistrate, Cum District Arms Officer, Distt.- Siwan, Siwan
5. The Superintendent Of Police, Siwan, Distt.- Siwan

.... Respondents

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Appearance :

For the Petitioner : Dr. Uma Shankar Prasad, Sr. Advocate
Mr. KAMALA KANT TIWARY, Advocate
For the State : Mr. Manoj Kumar Sinha, AC to SC 20

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-08-2015

I have heard learned counsel for the petitioner and the State
and have perused the record of the case.

Annexure 4 which is an order dated 22.12.2008 passed by
the District Magistrate, Siwan by which he has rejected the
petitioner's application for grant of licence of 32 bore pistol as well
as Annexure 5 which is an order dated 06.11.2010 passed in Arms
Appeal No. 4/2009 by he Commissioner, Saran Division, Chapra by
which he has upheld the order of the licensing authority and
dismissed the appeal, are sought to be challenged in this writ
application.

It is contended on behalf of the petitioner that his father,
who was serving as Superintendent of Commercial Taxes in



Maharashtra and after retirement he was residing at Mumbai, died in the year 2007. He was holding a licence for .32 bore pistol and was also in possession of a pistol. Immediately after his death, the pistol was deposited by the petitioner in the office of the Police Commissioner, Mumbai which had granted a receipt in that connection appended as Annexure 6.

The petitioner, thereafter, filed an application vide Annexure 1 for grant of .32 bore pistol. In the application he had given his address to be a resident of village Balahun, Police Station Darauli, Siwan. He has also described himself as Medical Practitioner in Ayurved and has also shown himself to be engaged in farming. He has also disclosed the licence number of his father. On the aforesaid application having been made a police verification was done. A copy of the report submitted by the police stands appended as Annexure 2 in which it has been stated that his father was also holding a licence of .32 bore pistol and his firearm has been deposited along with the licence. The petitioner claims that he has attached the receipt granted by the office of the Police Commissioner, Mumbai acknowledging the deposit of the licence and the pistol and gun of his father which has been shown to have been deposited by Rajesh Raj Mangal Singh, i.e., is the petitioner and the same also discloses the address of his father. It appears that



he was asked to submit his address of Mumbai vide a letter dated 07.11.2008 contained in Annexure B to the counter affidavit. The petitioner responded by writing a letter addressed to the District Arms Magistrate in which he has stated that his permanent address has been disclosed in the application. He used to reside at Mumbai in his student life when his father was alive. His children are residing in Mumbai for the purpose of education. However, petitioner's request was finally rejected vide impugned order dated 22.12.2008 contained in Annexure 4 on the ground that the petitioner had concealed his address of Mumbai and submitted the same only when he was asked to submit it which was in violation of Rule 51(c)(i) of the Bihar Arms Rules, 1962(hereinafter to be referred to as "the Rules"). Petitioner's appeal was also dismissed on the ground that he has not given information as per Rule Rule 51(c)(i) of the Rules and he did not disclose as to where the firearm would be kept.

Learned counsel for the petitioner submits that the required information was already given by the petitioner. He never concealed the address. In fact, the petitioner is not residing at Mumbai, therefore, he did not given the address of Mumbai. He has disclosed that he is a Medical Practitioner and engaged in farming. Obviously he is also doing the agricultural work. It is evident from Annexure



C, which is xerox copy of his application form along with the documents appended by the petitioner, that he has submitted the copy of the receipt given by the Police Commissioner, Mumbai regarding deposit of the arms of his father which also discloses his Mumbai address. He also contends that there was no question of filing copy of his Income Tax Return as his annual income was shown to be rupees one lac only in the application form. It is also stated that copy of the PAN card was also submitted by the petitioner which is sufficient proof of his address.

I find substance in the submission made on behalf of the petitioner. The respondents themselves have appended Annexure C which discloses that the petitioner has appended the receipt granted by the office of the Police Commissioner, Mumbai which shows deposit of the firearms of the father of the petitioner and also discloses the Mumbai address. However, the petitioner is not residing at Mumbai, thus, there was hardly any requirement of disclosing the address of Mumbai specially when the same already stood described in the document submitted. In fact, there was no reason to assume that there was concealment of Mumbai address as the same stood reflected in the document submitted by him.

Learned counsel for the State could not show from the impugned order as to under which column the address of Mumbai



was to be given so that non-furnishing of the same could have formed reason for rejection of his prayer. Since the petitioner is the resident of the village aforesaid, therefore, address of his village was given and address of Mumbai was not given as claimed by the petitioner simply for the reason that the petitioner used to reside at his father's place at Mumbai only in his student life, however, now his children are residing there for the purpose of education. Be that as it may, on demand he had furnished that address also.

It appears that the licensing authority has gone too far for coming to such conclusion. There was no question of filling up the column which was required under Rule 51(c)(i) of the Rules as he has nowhere disclosed that he is requiring the arms licence for crop protection. He has disclosed the ground of safety of his person and property for making such application and special reason has been stated by him that his area is extremist affected.

In above view of the matter, in my considered opinion, there was no occasion for the licensing authority to reject the application of the petitioner on the aforesaid ground.

Accordingly, this application is allowed, the impugned orders contained in Annexures 4 and 5 are quashed and set aside and the matter is remitted back to the licensing authority to dispose of the same in accordance with law within a period of two months

from the date of receipt/production of a copy of this order. In case further information is required then the licensing authority may ask the petitioner to furnish the same but his application should not be rejected in a mechanical manner.

(Dr. Ravi Ranjan, J)

SC/-

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