

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10808 of 2013

Dr. Vishwamohan Dayal, Son of Dr. Permashwar Dayal, Resident of
Village/Mohalla - Garden House Gali No. 1, Salimpur Ahra; Police Station -
Gandhi Maidan, District - Patna

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The Collector-Cum-District Arms Officer, Patna
4. The Additional District Arms Officer, Patna

.... Respondents

Appearance :

For the Petitioner/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mr. Sanjeev Kumar Singh, AC to SC-12
Mr. Pramod Kumar Singh, AC to SC-12

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 22-09-2015

I have heard learned counsel for the petitioner and the
State.

The petitioner seeks direction for grant of arms licence in
the light of the order dated 1.04.2011 passed by the Commissioner,
Patna Division, Patna in Arms Appeal No.232 of 2009.

It is contended that the petitioner had filed an application
for grant of arms licence for D.B.B.L. Gun in the year 2007 which
was refused by the District Magistrate-cum-licensing authority, Patna
in the year 2008 itself. The petitioner again filed an application in the
year 2009, which was again rejected by the licensing authority vide
Annexure-5 stating that against the order dated 24.04.2008 earlier



passed by the licensing authority, there is a provision of filing an appeal, therefore, second application is fit to be rejected. Thereafter, the petitioner filed Arms Appeal No.232/2009 before the Commissioner, which was disposed of vide order dated 1.04.2011 holding that the licensing authority has passed a non-speaking and unreasoned order. The matter was remitted back to him for fresh decision after granting opportunity of hearing to the petitioner. That happened on 1.04.2011 itself as would appear from Annexure-1, however, thereafter, nothing has been done.

In my view, the respondents have conducted themselves in a casual and negligent manner as the matter of the year 2007 is still pending for decision by the licensing authority.

Now, a counter affidavit has been filed on behalf of respondent nos. 3 and 4 taking their stand that since elections have been notified, no decision can be taken by the authority concerned. In support his submission, relevant part of model code of conduct has been appended, clause 3.8 of which discloses that there is ban on the issuance of licence of arms till completion of elections as notified.

In my considered view, the stand of the State authorities is without any basis as the matter could have easily been decided before the elections were notified.

However, in view of the fact that the licensing authority

has tendered unqualified apology for the delay caused, this Court refrains itself from awarding any cost upon the said authority.

Accordingly, I direct the District Magistrate-cum-licensing authority, Patna to take a decision in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.

However, it is made clear that even if the application of the petitioner is allowed, the licence would be physically handed over to the petitioner only after completion of the election so notified.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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