

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12960 of 2016

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Dwarika Nath Singh, Son of Late Ram Sagun Singh, resident of Village- Kuruthia,
P.O.- Bhadwar, P.S.- Bagen Gola, District- Buxar.

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Patna Commissionery, Patna.
3. The District Collector, Buxar.
4. The District Arms Magistrate, Buxar.
5. The Superintendent of Police, Buxar.
6. The S.H.O. Bagen Gola, Police Station District- Buxar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Maya Shankar Mishra, Advocate
For the State : Mr. Anil Kumar, A.C. to S.C. 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-12-2016

I.A. No.8319 of 2016:

This interlocutory application has been filed by the petitioner assailing the order dated 09.09.2016 by which his firearm licence has been suspended and he has been saddled with a notice that why his licence should not be cancelled.

Admittedly, the petitioner's licence was valid till 31st December, 2012. He had submitted application for renewal on 26.08.2013 after the schedule time. It is contended on behalf of the petitioner that the matter remained pending for years, however, when the writ application was filed for direction for renewal of licence, his



licence has been suspended during the pendency of the writ application.

Accordingly, I.A. No.8319 of 2016 is allowed. The petitioner is permitted to assail the order of suspension.

C.W.J.C. No.12960 of 2016:

Counter affidavit has been filed on behalf of the respondent no.3 admitting that the petitioner's application for renewal was filed after schedule time on 26.08.2013. Thereafter, the District Arms Magistrate requested the Superintendent of Police, Buxar for verification of past and present character and conduct of the petitioner. The District Arms Magistrate again requested the Superintendent of Police for sending the report vide Annexure C. Thereafter, on 14.03.2016, a show cause notice was issued regarding non-renewal of the arms licence within time and keeping the arms without renewal of the licence vide Annexure D. Again vide Annexure E, the Superintendent of Police was requested to send the report and vide Annexure F, Superintendent of Police forwarded the report of the S.H.O. The petitioner was again directed to show cause vide Annexure G as to why he is keeping his arms without renewal. However, vide Annexure H, the petitioner has responded that he has already submitted an application for renewal of licence but renewal has not been done as the report of the petitioner from the



Superintendent of Police was never received and the petitioner is running pillar to post for three years for getting the renewal done but his effort has gone in vain. Under the aforesaid factual matrix, he has approached this Court by filing the present writ application.

I have heard the parties and perused the records of the case.

In my view, the entire thing indicates towards laches which has been found with the office of the Licensing Authority itself as the petitioner's application for renewal had remained pending from 2013 till 09.09.2016 when the order of suspension was passed.

It is evident from Rule 57(2) of the Arms Rules, 1962 that where a licensee submits his application for renewal of his licence after the expiry of the period, the Licensing Authority may, if he decides to renew his licence, at his discretion levy certain fee for renewal. If he is satisfied that though the delay is not justifiable, or excusable but not serious enough to warrant revocation of the licence, a late fee may also be imposed.

However, in the present case, no decision was taken by the Licensing Authority and after two years character certificate was being sought from the Superintendent of Police which was sent after much delay. That apart, the authority, though issued show cause vide Annexure D and G to explain as to why he is keeping his firearm but



he was nowhere directed to deposit his firearm on any earlier occasion rather, to the contrary, Annexure 4 says that his firearm was inspected after expiry of 11 months but the firearm was not seized at that point of time. Petitioner claims that his firearm was inspected in the year 2015. Such endorsements are there in Annexure 4 but no answer has been given to the questions. It appears that for the fault and laches on their own part, petitioner is being made scapegoat. That apart, it does not appear that the show cause notice was ever issued for suspension of licence. A Single Judge Bench of this Court in **Amar Sinha Vs. District Magistrate, Monghyr and another [1990 PLJR 217]** has held after placing reliance upon a Full Bench decision of **Kapildeo Singh vs. State of Bihar and Ors. [AIR 1987 Pat 122]** that suspension or revocation of arms licence on any ground without affording an opportunity of being heard would be bad and in violation of principle of natural justice.

As a result, this writ application has to succeed. Accordingly, the impugned order, as contained in Annexure 6, is quashed and set aside. The matter is remitted back to the Licensing Authority who had inspected the petitioner's firearm, as petitioner has already deposited his firearm before the Bagen Gola Police Station, to take a decision in accordance with law regarding renewal of petitioner's licence without considering the issues for which his



licence was suspended as those grounds are not at all found tenable as the Licensing Authority itself has to be blamed for not taking any decision in the matter of the petitioner for such a long period. It is expected that such decision would be taken within a period of three months from the date of receipt/production of a copy of this order. However, if the petitioner’s licence is renewed, his firearm should immediately be released by the police station in accordance with law also considering the provision contained in Rule 54 and 57 of the Arms Rules, 1962.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.05.2017
Transmission Date	NA

