

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1208 of 2016

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Kamlesh Kumar S/o Late Bhishm Maharaj Resident of Village Shyampur Dyal, PO
- Madhurapur, PS - Bidupur, District - Vaishali.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Home Department, Government of Bihar, Main Secretariat, Patna.
2. The District Magistrate, Vaishali at Hajipur.
3. The District Arms Magistrate, Vaishali at Hajipur.
4. The Superintendent of Police, Vaishali at Hajipur.
5. The Officer In-charge, Bidupur Police Station, District Vaishali.

.... Respondents

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Appearance :

For the Petitioner : Mr. Akshat Amritanshu, Advocate
For the State : Mr. Ajay Bihari Sinha, S.C. 19,
Mr. Neeraj Raj, A.C. to S.C. 19

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-02-2016

Heard the parties.

Petitioner seeks quashing of the order dated 31.07.2015 passed by the District Arms Magistrate, Vaishali by which licence of the petitioner of firearm has been cancelled on the ground that he did not deposit the duly filled up NDAL form in terms of direction contained in the notice published in the newspaper and even despite personal notice which was required for preparing an Electronic National Data Base of arms licences.

Learned counsel for the petitioner submits that he has already deposited it in the concerned police station. In support of his

submission, the petitioner has appended Annexure 9 which is a receipt showing deposit of such form.

It is contended on behalf of the State that the requirement was that he should have furnished the duly filled up form before the office of the District Arms Magistrate but he has not done that. It is also contended that even a personal notice was issued to the petitioner vide Annexure D/3 dated 24.06.2015 but the petitioner ignored it, therefore, coercive action has been taken.

However, from the impugned order itself, it appears that the direction of the Central Government for getting NDAL form filled by the licence holder was known to the Licensing Authority before the Month of November, 2014 because the matter was sent for publishing the concerned notice in the newspaper to the Information and Public Relation Department, Bihar, Patna. The petitioner has appended the amendment which was published in the Gazette of India on July 24, 2012(Annexure 2). Clause 2 inserted in sub-Clause (5) of Rule 54 thereof lays down in clear terms that the Licensing Authority or the renewing authority at the Centre or at the State level, while granting a license or renewing a license, as the case may be, shall enter the relevant data in an electronic format duly approved by the Central Government or the State Government, as the case may be.

In the present case, the forms etc, were available before



November, 2014 and the petitioner had applied for renewal of the licence which was renewed on 19.12.2014 till 2017. Thus, in my view, the renewing authority was duty bound to get the NDAL filled up by the petitioner only then licence should have been renewed, thus, there appears to be an omission on part of the renewing authority also in renewing the licence of the petitioner on 20.12.2014 without compliance of amended rule 5 of the Arms Rules, 1962. Whereas, the petitioner though had furnished the form concerned before the concerned police station, his licence has been cancelled on that ground that duly filled up form for the purpose of preparation of Electronic National Data Base was not submitted by him in compliance of the notice.

Thus, in my view, the cancellation of the licence is very harsh step taken against the petitioner as his licence was renewed without getting the NDAL form filled up at that point of time. That apart, subsequently, the date of filling up NDAL form has been extended till 31st March 2016.

Accordingly, this writ application succeeds. The impugned order is quashed and set aside. The petitioner would be required to furnish the necessary form along with a copy of this order before the Licensing Authority. On such action having been taken by the petitioner to the satisfaction of the Licensing Authority on or

before 31st of March, 2016, let the arms of the petitioner be released in his favour after making necessary entry in his licence.

(Dr. Ravi Ranjan, J)

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