

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3667 of 2016

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Md. Akbar Kalam, Son of- Abdul Kalam, resident of Mohalla- Shahganj, P.O Mahendru, P.S. Sultanganj, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. District Arms Magistrate, Patna.
5. Additional District Magistrate (Arms), Patna.
6. Sr. Superintendent of Police, Patna.
7. S.H.O. Sultanganj Police Station, Patna.

.... Respondents

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Appearance :

For the Petitioner : M/s Manisha Pandey and
Sweta Pandey, Advocates
For the State : Mr. Manish Kumar, AC to GP 18

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-05-2016

Heard parties.

Petitioner is aggrieved by the order dated 12.12.2015 passed by the District Magistrate –cum – licensing authority, Patna, as contained in Annexure 4, by which his application for grant of licence for DBBL gun has been rejected.

The petitioner was granted licence for DBBL gun being Licence No. 14/91 but the same was granted by the Sub Divisional Officer, Patna City who was not a competent authority and the same was not valid one.



In fact that has not done only in the case of the petitioner but the same has been done during that period in many other matters in all over the State of Bihar under some confusion that who was the actual licensing authority. Matters were coming before this Court on several occasions. Lastly, in **C.W.J.C. No. 782/2009 (Md. Hamid Ansari & anr. Vs. The State of Bihar & ors.)** a Coordinate Bench of this Court has directed the District Magistrate concerned to take a decision upon the application of the petitioner afresh on its own merit and in accordance with law ignoring the past controversy. After such order having been passed, several other writ applications were disposed of in light of that order including that of the petitioner which was disposed of vide order dated 10.8.2015 as contained in Annexure 2 also directing the Senior Superintendent of Police, Patna to ensure that the police report would be prepared and sent to the District Magistrate. However, the petitioner's request has been refused vide impugned order vide Annexure 4.

During the course of hearing the petitioner raised that on identical facts one Sidhnath Prasad has been granted licence whereas the petitioner has been discriminated. On such stand having been taken by the petitioner, this Court had directed the concerned respondents to file counter affidavit bringing on record the distinction between the case of the petitioner and Sri Sidhnath Prasad. A stand



was taken in the counter affidavit that the petitioner did not deposit his firearm for more than twenty years though licence was granted by incompetent authority. Whereas, the aforesaid Sidhnath Prasad had produced the firearm. Then this Court had asked the respondents to bring on record the date on which Sidhnath Prasad had deposited his firearm but the authority miserably failed to produce any document to show that in fact Sidhnath Prasad had ever deposited his firearm for the reason that his licence was granted by an incompetent authority. The document which has been brought on record as Annexure A would clearly show that in the year 2013 an application was filed by Sidhnath Prasad on the basis of the decision of **Md. Hamid Ansari (supra)**. Police has reported that his licence was granted by incompetent authority but now he wants a fresh licence. Such being the situation and admittedly in **Md. Hamid Ansari (supra)** it was the direction to the District Magistrate to ignore the past controversy and take fresh decision, in my view such discrimination could not have been done by the respondent authorities.

Accordingly, the impugned order as contained in Annexure 4 is quashing and set aside. The matter is remitted back to the licensing authority concerned to take a fresh decision in accordance with law within four months from the date of receipt / production of a copy of this order. While doing so he would oblige

to consider the report of the Officer Incharge of the concerned Police Station which is already on record. It has clearly been indicated therein at col. No. 9 that if licence is granted in favour of the petitioner there would be no adverse effect to the public peace and tranquility. The report has been appended to the counter affidavit filed on behalf of the State as Annexure A.

This application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

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