

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8376 of 2015

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Shama Parween W/o Tabrej Alam, R/o Village - Gareria Khand, P.s. - Jehanabad,
District - Jehanabad.

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Magadh Division, Gaya.
3. The Collector, Jehanabad.
4. The Arms Licensing Authority, Jehanabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Tafazzul Ahmad, Advocate
For the State : Mr. Sudhir Kumar, AC to AAG 2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-03-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 2 which is an order dated 12.3.2010 passed by the District Magistrate – cum – licensing authority, Jehanabad by which the application for grant of licence for N.P.Bore pistol / rifle has been rejected on the ground that his husband happens to be the ‘shooter’ of one Md. Shahabuddin. It appears that the petitioner has approached this court earlier by filing C.W.J.C. No. 16642/2009 during which the aforesaid order came to be passed by licensing authority in such a situation the writ application was dismissed as withdrawn granting liberty to the petitioner to avail statutory provision of appeal . The Arms Appeal No. 6 of 2011 was preferred in the year 2011 and that has remained



pending for about four years and after four years vide Annexure 1 dated 27.3.2015 the same has been dismissed on the ground that though, in the cases of districts of Siwan and Jehanabad a competent court has already passed judgment of acquittal in favour of the husband of the petitioner but still some cases are pending in the districts of Patna and Dhanbad, thus, it can safely be construed that her husband is of questionable character.

However, the licensing authority has rejected the claim of the petitioner only on one ground that his husband was shooter of a former Member of Parliament. Despite adjournments granted on several occasions nothing has been brought on record to show that the husband of the petitioner was shooter of aforesaid person. So far cases pending against the husband of the petitioner is concerned, it has nowhere been discussed in the order passed by the licensing authority. It is well settled that if the order passed by the original authority suffers from fatal lacuna that cannot be rectified by the appellate authority. Of course the appellate authority has mentioned about some cases pending against the husband of the petitioner but the question is of licence of the petitioner and not of her husband.

Having regard to the aforementioned facts and circumstances the impugned order cannot be sustained in present form and accordingly the same is quashed and set aside. However,

the matter is remitted back to the District Magistrate cum licensing authority, Jehanabad to take a fresh decision in the matter in accordance with law. While doing so he will have to keep in mind that, as per the decision of a Full Bench of this court in **Kapildeo Singh vs State Of Bihar And Ors. [AIR 1987 Pat 122]**, though the licensing authority has untrammelled discretion for taking a decision for grant or rejection but for rejection some cogent reason would have to be assigned. Accordingly, the licensing authority would be at liberty to examine the conduct of the petitioner as well as her husband also and his/her involvement in different cases and then after analyzing all the facts and circumstances and materials on record, he would be required to come to the final conclusion.

It is expected that the entire exercise would be completed within a period of four months from the date of receipt / production of a copy of this order.

(Dr. Ravi Ranjan, J)

Spd/-

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