

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8998 of 2016

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Enayat Ali Son of Md . Wasi Resident of Mohalla- Bihari Saw Lane, Ashok Raj
Path, PS Pirbahore, District Patna.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Patna.
3. The District Magistrate, Patna.
4. The Additional District magistrate Patna.
5. The Arms Magistrate, Patna;

.... Respondents

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Appearance :

For the Petitioner : Mr. Kumar Rajeev, Advocate
For the State : Mr. Binodji Verma, GP 17

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 27-06-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 4 which is an order dated 3.3.2016 passed by the licensing authority by which he has refused to extend the petitioner's request for extension of area of firearms licence of the petitioner from Patna District to whole of India (except Jammu and Kashmir).

It is not the first time that the petitioner has approached this Court as he had earlier filed C.W.J.C. No. 18434 of 2013 with a prayer for extension of area for his licence.

This Court vide order dated 6.10.2015, as contained in Annexure 3, had directed the District Magistrate, Patna to take a decision for extension of arms licence of the petitioner for the entire State of Bihar at his end and for extension for all over India he was directed to refer the same to the competent authority for its consideration.

It appears from the first paragraph of the impugned order itself that the petitioner's application was for grant of two reliefs. First was for extension of area of licence from Patna District to entire State of Bihar and second for extension of whole India (except Jammu and Kashmir). However, so far the extension to the entire State of Bihar is concerned there is no decision at all by the licensing authority. So far extension for whole of India is concerned, the licensing authority was merely directed to refer the matter to the competent authority. He could have done so along with his recommendation or by saying that he is not recommending for the said purpose giving the reasons but he himself has decided the matter for extension of whole of India as if he was competent authority to decide that.

In my view both the directions given by this Court vide Annexure 3 has been flouted as there is no decision on grant of extension of area for the entire State of Bihar and though he was



only directed to recommend or refer the matter to the competent authority for All India extension, he has decided the same. Apart from the above it appears that the Superintendent of Police has recommended that the extension of area would not proper in view of the fact that the petitioner so far the year 2010 is concerned was having an income of Rs. 2,02,352/- only. Learned counsel for the State has miserably failed to point out from the statute that under which provision assessment of financial position is required for extension or grant of firearms licence. To the contrary, Section 14(2) of the Arms Act, 1959 lays down in clear terms that licensing authority shall not refuse to grant any licence on the ground that such person does not own or possess sufficient property.

Accordingly, the impugned order is quashed and set aside. The matter is remitted back to the District Magistrate-cum-licensing authority, Patna for taking a fresh decision in accordance with law within a period of three months from the date of receipt /production of a copy of this order in compliance of the earlier direction of this Court contained in order dated 6.10.2015 passed in C.W.J.C. No. 18434 of 2013 (Annexure 3). However, so far extension of All India is concerned he would be required to refer the matter to the competent authority along with his recommendation or stating the reason why he is not recommending the same so that

competent authority may take a final decision in the matter.

This writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	
CAV DATE	NA
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