

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16332 of 2015

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Vineet Mishra Son of Dharmeshwar Mishra, Permanent resident of Mohalla- Balbhadrapur, P.S.- Laheriasarai, District- Darbhanga, At present residing at Flat No. 603, Cosmoss Regency, Baner, Pune, Maharashtra

.... Petitioner

Versus

1. The Union of India, Ministry of Home Affaris, through its Secretary, North Block, New Delhi
2. The Joint Secretary, Ministry of Home Affairs, Government of India, I S-II Division/Arms Section, Nehru Place, New Delhi
3. Under Secretary, Ministry of Home Affairs, Government of India, I S II Division/Arms Section, Nehru Place, New Delhi
4. The Principal Secretary, Department of Home (Police), Government of Bihar, Old Secretariat, Patna- 1
5. The Divisional Commissioner, Darbhanga
6. The District Magistrate, Darbhanga

.... Respondents

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Appearance :

For the Petitioner : M/s Siya Ram Sahi, and
Sanjay Kumar Srivastava, Advocates

For the Union of India: Mr. S.D. Sanjay, Additional S.G., CG
Mr. Abhay Shankar Jha, CGC

For the State : Mr. Rajesh Kumar Sinha, AC to GP 25

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 11-01-2016 Heard the parties.

Grievance of the petitioner is that the petitioner was initially granted arm licence for N.P. Bore revolver for the State of Bihar which was subsequently extended for the States of Uttar Pradesh, Jharkhand and West Bengal but now he has applied for extension for whole of India, however, alternatively he requires it at least for the States of Madhya Pradesh and Maharashtra as he resides at Pune. The matter of petitioner was sent for approval by



the State Government to the Central Government, however, the Central Government has returned the same on the ground that proper opinion has not been given. It is merely stated in the letter of the State Government that since the petitioner resides at Pune, therefore, he wants extension of his arm licence to whole of India category.

Mr. S.D. Sanjay, learned Additional Solicitor General of India, has submitted that no proper inquiry has been made before writing that.

However, learned counsel for the State files a counter affidavit and submits that inquiry has been made.

In my view, positive recommendation was required before approval is granted by the Central Government in view of the new instructions which have been issued in terms of the statutory provision.

A question arose during the hearing of the case that Annexure 4, which is a letter issued under the signature of the Joint Secretary of the Government of India addressed to all the Secretaries(Home Department) of all the States/Union Territories, dated 31st March, 2010, is dealing with so many issues right from grant of arm licence for prohibited bore weapons, grant of arm licence for non-prohibited bore weapons, grant of licence under



family heirloom policy, quantity of ammunition, reporting use of ammunition, grant of arm licence to Overseas Citizens of India, area validity of arm licence, to several other issues, as such, whether such instructions can be issued by the Central Government under the provisions of the Arms Act, 1959 or Arms Rules, 1962?

However, in view of the proposed order which is being passed, this issue is not being dealt with in this case and the same is left open to be considered in future if such occasion so arises.

Accordingly, this writ application is being disposed of with a direction to the Principal Secretary, Department of Home(Police), Government of Bihar to get an inquiry done by the competent authority and if he is satisfied that the petitioner is fit to be granted benefit of all India extension of his arm licence or for specific States, such recommendation based on inquiry conducted should be sent by him within a period of three months from the date of receipt/production of a copy of this order to the Central Government. Thereafter, the competent authority of the Central Government would be required to consider and take a decision in the matter of the petitioner in accordance with law within a further period of three months from the date of receipts of such recommendation. However, if the Principal Secretary is not

satisfied then he should pass a reasoned order which shall also be communicated to the petitioner.

(Dr. Ravi Ranjan, J)

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