

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11768 of 2014

=====

Jitendra Sharma, Son of Ram Ekbal Singh, Resident of Village- Jaipur, P.S-
Mehandia, District- Arwal.

.... Petitioner

Versus

1. The State of Bihar, through Commissioner, Magadh Division, Gaya.
2. Commissioner, Magadh Division, Gaya.
3. District Magistrate/ Collector, Arwal.
4. Superintendent of Police (S.P), Arwal.
5. Officer in- Charge, Mehandia, Police Station, Arwal.

.... Respondents

=====

Appearance :

For the Petitioners : Mr. Pramod Kumar Singh, Advocate
For the State : M/s S.A. ALAM, SC 3 and
Mahfoozur Rahman, AC to SC 3

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 25-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 5.6.2014
passed by the Commissioner, Magadh Division, Gaya in Arms Appeal
No. 126/2013, as contained in Annexure 5, by which his appeal has
been rejected on the ground of delay in preferring the same.

Only one ground is raised on behalf of the petitioner
that admittedly there is appeal has to be filed within 30 days from the
date of issuing the impugned order but the same has filed after delay
of about 16 days which was inordinate delay. However, the appellate
authority could have granted at least one opportunity to the petitioner

to file a petition for condoning the delay which was admittedly not filed.

In my view the technicality should not come in way of doing full justice. If the delay is merely of about 16 – 17 days then ordinarily one opportunity should have been granted by the appellate authority for filing a petition for condoning the delay even if it was not filed along with memorandum of appeal. Thereafter, the petition for condoning of delay should have been decided.

Accordingly, the impugned order as contained in Annexure 5 is quashed and set aside.

The matter is remitted back to the appellate authority for taking a fresh decision in the matter. The petitioner would be required to file a petition for condoning the delay along with copy of this order within a period of six weeks from today. In such case, let the matter be heard in accordance with law.

The writ petition stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

U			
---	--	--	--