

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5904 of 2016

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1. Rama Shankar Prasad Rai Son of Chandradeep Rai Resident of Village Gangajal Tola, P.O. & P.S. - Soenpur, District - Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Arms Magistrate, Vaishali, Hajipur.
4. The District Magistrate, Vaishali, Hajipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar

For the Respondent/s : Mr. Sanjeev Kumar Mishra, A.C. to S.C. 17

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-06-2016

The petitioner seeks quashing of order dated 31.07.2015 as contained in annexure-4 by which his fire arm licence has been cancelled for non submission of NADAL form and also for not getting the licence renewed. The petitioner also seeks quashing of the appellate order dated 01.02.2016 passed by the Commissioner, Tirhut Division, Muzaffarpur, as contained in annexure-5, dismissing the appeal preferred against the aforesaid order dated 31.07.2015.

2. Records were called for. It does not appear from the record that any order has been passed by the District Magistrate rather it appears that a printed form was given to the District Magistrate for his approval and for getting his signature upon the note-sheet and the aforesaid order. It does not appear that any



proceeding was ever initiated against the petitioner for cancellation of license or the petitioner was ever noticed on the point of cancellation. It appears that some body else has placed the draft before the District Magistrate which was eventually signed by him on 28.07.2015. There does not appear any decision having been taken by the licensing authority after application of his mind and recording reasons or findings.

3. In my view, such a procedure adopted is erroneous inasmuch as it is the licensing authority who has to apply its mind on the issue of cancellation of fire arm licence. It does not appear from the order-sheet that there was any consideration by the District Magistrate.

4. So far as filing of NADAL form is concerned, it is stated that though the petitioner's licence was cancelled on 31.07.2015 but the period for submission of such form was extended till 16.03.2016. A copy of the notification published in the gazette of India dated 23.09.2015 has been produced at the time of hearing which shows that the last date as contained in the earlier notification being 1st October, 2015 was substituted by "1st April, 2016.

5. Accordingly, in my view the orders impugned cannot be sustained in law and both are quashed and set aside. The matter is remitted to the licensing authority for fresh consideration in

accordance with law.

6. Let the petitioner file his reply and an application for renewal of his licence. He shall also submit duly filled up NADAL Form and thereafter a decision should be taken by the licensing authority on its own merit within a period of three months from the date of receipt/production of a copy of this order.

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

(Dr. Ravi Ranjan, J)

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