

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13526 of 2016

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Rajesh Kumar Son of Late Shiv Prashan Thakur Resident of village - Rajpur,
Police Station Bihiya (Bahoranpur O.P.), District - Bhojpur

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Home Government of Bihar, Patna
3. The Divisional Commissioner Patna Division, Patna
4. The District Magistrate, Bhojpur (Ara)
5. The Superintendent of Police, Bhojpur (Ara)
6. The Sub - Divisional officer, District Bhojpur (Ara)
7. The Dy. Superintendent of Police, District Bhojpur (Ara)
8. The Officer - in - Charge, Police Station Bihiyan (Bahoranpur), District - Bhojpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Dharendra Kumar, Advocate
For the State : Mr. P.K.Verma- AAG3 and
Dr. Mankeshwar Siwraj, AC to AAG 3

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 06-12-2016

Heard parties.

This writ application has been filed for a direction to the licensing authority to issue licence for DBBL gun to the petitioner under Family Heirloom Policy of the Central Government and in view of the directive issued by the State Government vide Annexure 3 dated 13th October, 2014 addressed to all the District Magistrates.

During the pendency of the writ petition as would be evident from the counter affidavit filed today the petitioner's request has been rejected by the licensing authority. However, though such



statement has been taken by the respondents in the counter affidavit, a copy of the order has not been appended therewith.

The respondents were directed to produce the original records which have been produced. It appears from the records that the licensing authority, vide order dated 13.10.2016, passed during the pendency of the writ petition, has refused licence for firearm on the ground that Superintendent of Police has not recommended his case.

Admittedly, the petitioner's father was holding a SBBL gun. After his death on the 10th September 2011 his gun was deposited vide Annexure 2 with Lakhipur Police Station, district Gopalpara in the State of Assam. Thereafter, the petitioner filed application for grant of firearm licence so that he could retain the firearm of his father. From the records it appears that the Superintendent of Police, Bhojpur vide Annexure 5 has submitted a report considering about 51 matters in a single report which is in tabular form and is unreasoned and non speaking. So far the petitioner is concerned it stands stated that the Officer-in-Charge and the Inspector of Police has recommended his case. The Sub Divisional Police Officer has also forwarded his case but the Superintendent of Police simply not recommended without assigning any reason.

In my view, such report has to be held to be arbitrary



exercise of powers given to the concerned authority. Whenever any adverse decision is to be taken or adverse recommendation is to be made, reasons would have to be recorded by the concerned police officer as to why he is not recommending the matter even though the Officer-in-Charge of the nearest Police Station, as required under Section 13(2) of the Arms Act, 1959, has already recommended for that. The licensing authority also has to answer as to why in place of seeking a report from the Officer-in-Charge of the concerned Police Station, he sought report from the Superintendent of Police, which is not required under Section 13(2) of the Arms Act. Even if some further inquiry was required to be done by the Superintendent of Police, the report sent by him, being unreasoned, should not at all have been accepted by the licensing authority.

The order concerned has not been supplied to the petitioner, as nothing is available in record to show that a copy of the order has been served upon the petitioner, and, as such the order could not be challenged by the petitioner. However, after looking into the entire matter this Court is of the view that such order cannot be allowed to be sustained. As a result the same is quashed and set aside.

The matter is remitted back to the Licensing Authority to make proper inquiry. If he wants to ascertain as to whether the



petitioner’s father was holder of the firearms licence or not, then he may have a communicate with the concerned authorities in the State of Assam and may also seek fresh police report in the matter. Thereafter, a final decision would be required to be taken expeditiously but not later than 3 months from the date of receipt/production of a copy of this order.

The records produced have been returned to the learned counsel for the State.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2017
Transmission Date	NA

