

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7669 of 2014

Lokesh Kumar Son of Late Hiralal Prasad resident of Village - LRP. Chawk
Bahadurganj, P.S. Bahadurganj, District - Kishanganj

.... Petitioner

Versus

1. The State of Bihar
2. The Divisional Commissioner, Purnea Division Purnea
3. The Collector Cum District Magistrate, Kishanganj
4. The Superintendents of Police, Kishanganj
5. The Sub - Divisional Police Officer, Kishanganj
6. The Officer In - Charge Bahadurganj Police Station, District - Kishanganj

.... Respondents

Appearance :

For the Petitioner : M/s Bhola Prasad, Advocate
For the State : Mr. Ajay Kumar AC to SC10

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-02-2016

I.A. No. 797/2016

Through this interlocutory application petitioner seeks amendment of the writ application by introduction of a relief for quashing an order dated 4.2.2012 by which the application for grant of arms licence was rejected by the licensing authority, Kishanganj.

The writ application was initially filed for direction to the licensing authority to take a final decision in the matter of petitioner's request for grant of arms licence which according to the petitioner was pending.

However, a counter affidavit came to be filed in which

it was contended that vide order dated 4.2.2012 his application has already been rejected. On such counter affidavit having been filed, it is contended on behalf of the petitioner that such order was never communicated to him and as such it never came to his knowledge that such order has been passed.

Records have been called for. Learned counsel for the State has failed to substantiate from the original record that there was any communication to the petitioner regarding rejection of his application in the year 2012.

In such situation this interlocutory application has to be allowed. The relief mentioned in paragraph 1 of the interlocutory application and the statements made therein would form part of the writ application.

C.W.J.C. No. 7669/2014

Heard parties. Perused the original records of the concerned case produced by the learned counsel for the State.

It appears from the original records that in view of the insufficient information given by the Officer in Charge, Bahadurganj Police Station through the Superintendent of Police, Kishanganj a note has been recorded by some of the officer stating that grant of licence is not recommended and then it appears that some of the officers addressed the District Magistrate concerned, in



view of the aforesaid noting, that the application for petitioner can be rejected. Thereafter, learned counsel submits that there is signature of the District Magistrate which indicates that he has approved the noting and recommendation, thus, it could be considered that the licensing authority has rejected the petitioner's application.

In my view such procedure adopted by the authorities is against the statutory provision of Sections 13 and 14(3) of the Arms Act, 1959 which lays down in clear terms that it is the licensing authority who has to satisfy itself regarding the grant or refusal of arms license. However, if he refuses under Section 14(3) of the Arms Act then he is obliged to record reasons for doing that. It does not appear that there is any application of mind by the licensing authority in exercise of the statutory power as it has merely signed the recommendation of same officer which is not the statutory requirement. Thus, the order cannot be accepted as sustainable in law. Accordingly, the same is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision in accordance with law and while doing that let him grant opportunity of being heard to the petitioner also before passing a final order. It is expected that the entire exercise would be concluded within a period of three months from the date of receipt /

production of a copy of this order.

(Dr. Ravi Ranjan, J)

Spd/-

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