

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6743 of 2006

Vijayendra Kumar, son of Sri Ram Tapeswar Singh, Chandra-Lok Bhawan, Civil Lines, Gaya at present residing at House No.4, Road No.5, Sri Krishna Nagar, P.S. Budha Colony, Dist.- Patna

.... Petitioner

Versus

1. The State of Bihar through Commissioner Home, Old Secretariat, Bihar, Patna
2. District Magistrate, Gaya
3. Senior Superintendent of Police, Gaya
4. S.D.O., Gaya

.... Respondents

Appearance :

For the Petitioner : Mr. Mukesh Kumar - I, Advocate

For the State : None

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-03-2016

Heard learned counsel for the petitioner. No one appears on behalf of the State. Though a counter affidavit has been filed on behalf of the respondent nos.2 and 4.

The petitioner is aggrieved by the order dated 22.05.2006 passed by the District Magistrate, Gaya by which his licence no.3766/04 granted for N.P. Bore revolver has been cancelled and he has been directed to deposit the arms either before the concerned police station or the arms dealer.

The matter was heard on 05.06.2006 and interim order was also passed directing that no coercive steps should be taken against the petitioner. The matter was admitted on 23.01.2009.



From the perusal of the impugned order as contained in Annexure 1, it appears that the petitioner was granted licence for N.P. Bore pistol/revolver on 09.11.2004 and time till 31.12.2005 was granted for purchase of weapon. It appears that though the petitioner purchased the weapon in July, 2005 but he could not deposit it before Licensing Authority for making the entry in the licence till 31.12.2005 but he produced it after 10 or 20 days and had written a letter on 20.01.2006 for extension of period for making entry in the licence. Petitioner claims that entry was made in his licence on 19.01.2006 itself but for delay of 19 days on 22.05.2006, later on, the licence has been cancelled. A copy of the licence has been appended as Annexure 4 and it appears that entry regarding the purchased weapon has been made by the District Arms Magistrate on 19.01.2006 itself. Such entry has not been controverted in the counter affidavit.

Thus, in my opinion, though there was delay of 19 days and licence could have been easily cancelled on that ground immediately but that was not done and relevant entry was made, thus, after making an entry in the licence on 19.01.2006, perhaps the order of cancellation would be too harsh. If the authorities were bent upon not to extend the period granted for purchase of weapon then such entry should not have been made in the licence at all but the fact is that, after delay of 19 days the petitioner had produced the weapon



and the entry in the licence was made by the District Arms Magistrate and the licence was not cancelled immediately. Therefore, in my view, after about 5 months, there was no requirement or occasion for cancellation of licence on such ground. Only requirement was to extend the period for 19 days for purchase and deposit of such weapon before the Licensing Authority. Section 52 of the Arms Rules, 1962 of course provides for cancellation of licence if no weapon is purchased within time but there is also a provision for extending that time for the aforesaid purpose and from Annexure A, it appears that it was a fit case in which such extension of 19 days could have easily been granted by the Licensing Authority.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure 1 is quashed and set aside. The Licensing Authority is directed to re-consider the matter of the petitioner for extending of time. Since the period of licence must have been expired, petitioner would be entitled to file application for renewal of licence which should also be considered by the authority.

It is expected that such decision would be taken within a period of three months from the date of receipt/production of a copy of this order. However, if the petitioner has yet not deposited his arms as per the direction in view of the interim relief granted by this Court then he would be required to first deposit the firearm either before the

relevant police station or before the arms dealer and, thereafter, along with a copy of this order, a request for extension of time and also for renewal of licence should be made before the Licensing Authority.

(Dr. Ravi Ranjan, J)

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