

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11463 of 2014

Bindeshwari Bhagat, son of Late Chhote Lal Bhagat, resident of village Teliahat,
Police Station Salakhu, District- Saharsa

.... Petitioner

Versus

1. The State of Bihar
2. The Divisional Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Saharsa

.... Respondents

Appearance :

For the Petitioner/s : Mr. Rajendra Kishore Prasad, Advocate
Mr. Manojeshwar Pd. Sinha, Advocate
Mr. Madhukar Pandey, Advocate

For the Respondent/s : Mr. Mahendra Pd. Verma, AC to SC-13

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 25-01-2016

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 25.10.2013 as contained in Annexure-5 by which his Arms Appeal No.220/13 has been dismissed on the ground that though the petitioner has stated regarding the impugned order in his memo of appeal but a copy of that was not appended with it and at the time of hearing only a photo copy of the impugned order was produced and also no cogent reason has been shown by the petitioner for setting aside the impugned order.

The petitioner had preferred the appeal in view of the direction of this Court contained in the order dated 29.04.2013 passed in CWJC No.10764 of 2012 as contained in Annexure-3. The



petitioner was aggrieved by the order dated 2.04.2012 passed in Arms Case No.20 of 2011-12 by which the petitioner's application for restoration of his arms licence was dismissed for non-prosecution on 11.07.2011. Vide order dated 29.04.2013, a Single Judge Bench of this Court granted liberty to the petitioner to file appeal within four weeks and such appeal shall be considered in accordance with law without going into the question of limitation.

In my view, the appellate authority could have granted time to the petitioner for filing a copy of the concerned. If there was some defect in the memorandum of appeal then it should have granted liberty to the petitioner to remove it within a fixed period failing which only the appeal should have been dismissed by a reasoned order. Disposal on merit would be the best mode of disposal of a case which was also the direction of this Court. At one hand, the appellate authority has stated that the petitioner has not filed any paper or copy of the impugned order but at the same time it has also stated that learned counsel for the petitioner could not show any cogent reason for allowing the appeal. On that count also this application has to succeed as the appellate authority has not assigned any reason for coming to such conclusion. Thus, in my view, the order impugned cannot be sustained in law.

Accordingly, the same is quashed and set aside. The

matter is remitted back to the appellate authority which will grant reasonable opportunity to the petitioner to file necessary documents as mentioned in the memorandum of appeal including copy of the orders and, thereafter, accord opportunity of hearing and after hearing the parties, a final decision would be required to be taken in accordance with law but that should be speaking and reasoned one.

However, if the petitioner fails to produce the necessary documents within the specified time then the appellate authority would be at liberty to proceed in even its absence and pass an order in accordance with law.

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

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

U			
---	--	--	--