

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5052 of 2018

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Md. Shahid Ekbal, Son of Nakki Uddin, Resident of Mohalla- Jay Prakash
Nagar, Khalifa Bag, Nala Road, Ward No.22, P.O.+P.S.+District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar,
Patna.
3. The Commissioner, Munger Division, Munger.
4. The District Magistrate, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Advocate
Mr. Kanhaiya Pandey, Advocate

For the Respondent/s : Mr. Sheo Shankar Prasad -SC8
Mr. Harshvardhan Singh Sundaram, AC to SC-8

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

02/ 07-05-2018

Heard Mr. Vinay Kumar Mishra, learned

counsel for the petitioner and Mr. Harshvardhan Singh Sundaram,
learned AC to SC-8.

The present Writ application has been filed
with a prayer for quashing the order dated 13.10.2016 passed by
Respondent no. 4, District Magistrate, Khagaria –cum- licensing
authority, as contained in Annexure-1, whereby the petitioner’s
application for grant of licence for rifle has been rejected. Hence,
further prayer has been made for a direction to licensing authority
to grant licence for rifle in favour of the petitioner.

It is submitted by learned counsel for the



petitioner that the petitioner is a social worker and is a resident of Khagaria district and is having landed property hence, he is facing constant threat from extremists, criminals and anti social elements. The petitioner submitted his application for grant of licence for rifle on 27.01.2016 before Respondent no. 4, District Magistrate, Khagaria. Consequently, District Magistrate called for a report when the Sub-divisional Magistrate and Superintendent of Police, Khagaria recommended for grant of rifle licence in favour of the petitioner. Subsequently, vide letter dated 24.09.2016 issued under the signature of the licensing authority, the District Magistrate, Khagaria, the petitioner was directed to appear in the office of licensing authority on 29.09.2016. Accordingly, the petitioner appeared and supplied all the information sought from him. But the District Magistrate, Khagaria vide order dated 13.10.2016 passed in Arms Licence Case No. 09 of 2016, as contained in Annexure-1, rejected the claim of the petitioner basically on the ground that the petitioner is not having any threat perception and that the local police has not recommended the case of the petitioner. The petitioner challenged the order of the District Magistrate, Khagaria before the Commissioner, Munger Division, Munger vide Arms Appeal No. 136 of 2016, but the appeal has not been disposed of till date. Hence, the present Writ application.



Statement to that effect has been made in paragraph 14 of the petition, which reads as follows:-

“That it is further stated that thereafter the petitioner moved before the Commissioner, Munger Division, in appeal No. 136/2016 challenging the order dated 13.10.2016. Unfortunately Commissioner Munger Division did not pass any order as such the petitioner is compelled to approach this Hon’ble Court.”

Learned AC to SC-8 submits that, at present, he is not having any instruction, but if the appeal has not been disposed of, then it will be disposed of within a time frame.

Having heard the learned counsel for the parties, this Court is dismayed to find that there is nothing on record to suggest that the appeal of the petitioner has been disposed of, which suggests the casual manner in which the Appellate Authority under the Arms Act is discharging the quasi judicial function. However, it is settled principle of law that the discretionary jurisdiction under Article 226 of the Constitution, which is subject to self imposed restraint, should not be exercised, when an alternative efficacious remedy is available. Hence, this Court is not inclined to interfere.

However, in view of the fact that the



petitioner's appeal appears to be pending since last more than a year. Under such circumstances, it is expected from the Appellate Authority, Commissioner, Munger Division, Munger, Respondent no. 3 to dispose of the Arms Appeal No. 136 of 2016, if it has already not been disposed of, within a period of eight weeks of receipt/production of a copy of this order.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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