

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16505 of 2017

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Nikhil Kumar Singh son of Late Dinanath Singh resident of village -
Makhmalpur (Barka Bigha) P.O. Shamsheer Nagar, P.S. - Daud Nagar,
District - Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar,
Patna.
2. The Principal Secretary, Department of Home, Government of Bihar,
Patna.
3. Divisional Commissioner, Magadh Range, Gaya.
4. District Magistrate, Aurangabad.
5. Superintendent of Police, Aurangabad.
6. Sub Divisional Officer, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar, Advocate
For the Respondent/s : Mr. Md.Nadeem Seraj, GP-5
Mr. Shailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 17-09-2018

Heard Mr. Surendra Kumar, learned counsel

for the petitioner and Mr. Shailesh Kumar, learned AC to GP-5.

The present writ application has been filed for
quashing the order dated 06.08.2016 passed by Respondent No. 4,
District Magistrate, Aurangabad, whereby the application of the
petitioner for grant of licence for Rifle has been rejected.

It is submitted by learned counsel for the



petitioner that the petitioner is a Lecturer. The father of the petitioner was Assistant Commissioner, Commercial Taxes and was a licensee having Licence No. 1531/72 and Rifle No. 99195 and he died on 06.07.2006 and thereafter the Rifle was deposited before the Arms dealer namely, M/s Janta Gun House, Nawadih Road, Aurangabad. But the District Magistrate has not considered the application of the petitioner as the petitioner ought to have been given preference under the heirloom policy in view of the executive instructions issued by the then Principal Secretary, Home Department, Govt. of Bihar vide letter dated 13.10.2014m whereby in view of the directives of Ministry of Home, Govt. of India issued vide letter No. V-11019/23/95/Arms dated 25.03.1995 and letter No. V-11016/16/2009, Arms dated 31.03.2010 which stipulated that the preference has to be given to the heirs or the nominee of the licensee, who either attained the age of 70 years or retained the licence for 25 years, but the said circular was not taken into consideration by the licensing authority.

Mr. Shailesh Kumar, learned AC to GP-5 submits that the petitioner has not availed the alternative remedy of appeal under Section 18 of the Arms Act, 1959. He further submits that from the statement made in paragraph 5 of the writ



application it appears that under heirloom policy the elder brother of the petitioner namely, Lal Bahadur Singh, and the petitioner separately applied for grant of licence.

Counter affidavit has been filed on behalf of Respondent no. 4 stating therein that though the police recommended for grant of licence, but it did not mention specific reason for grant of licence.

Without going into the merit of the writ application, this Court is not inclined to interfere on the sole ground that there is a statutory provision of appeal under Section 18 of the Arms Act, 1959 against the order passed by the licensing authority.

In the circumstances, the petitioner is at liberty to prefer an appeal before the Appellate Authority within a period of three weeks from the date of receipt of a copy of this order along with application for condonation of delay. It is expected from the Appellate Authority to consider the application for condonation of delay in view of the fact that the writ application was pending before this Court. It is further expected from the Appellate Authority to decide the appeal after condoning the delay in filing the appeal preferably within a period of two months of its filing.



With the above observation and liberty, the
present writ application is disposed of.

(Dinesh Kumar Singh, J)

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