

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5114 of 2017

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Akshay Lal Prasad, Son of Late Madan Sah, Resident of Village -
Hasanpurwa, P.O. - Machakana, P.S. - Andar, District - Siwan - 800001.
Presently residing at c/o - Shri Rama Nand Rai, Goriya Sthan Bailey Road,
Raja Bazar, P.O. - B.V. College, P.S. - Hawaii Adda, District - Patna - 800014.

... .. Petitioner/s

Versus

1. The State of Bihar through its Home Secretary, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Commissioner, Patna.
4. Additional District Magistrate (Arms) Patna.
5. District Arms Magistrate, Patna
6. Senior Superintendent of Police, Patna.
7. Station Head Officer, Hawaii Adda Police Station District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Apurva Kumar, Adv.
For the Respondent/s : Mr. Md.Nadeem Seraj, GP.5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 20-11-2018

Heard Mr. Apurva Kumar, learned counsel for the
petitioner and Mr. Dhurendra Kumar, learned AC to GP-5 for
the respondent-State.

The writ application was initially filed for a direction
to the respondent authorities, particularly, the Respondent No.2,
the District Magistrate, Patna to take a decision on the
application of the petitioner submitted for grant of licence of N.
P. Bore Rifle.

The writ application was registered on 04.04.2014, but
it appears that during pendency of the writ application, which is



an usual practice adopted by the office of the District Magistrate that when the licensing authority is expected to file counter affidavit, in the pending writ application, they pass the order, in order to render the writ application infructuous and this is what has been done in the present case. This Court deprecates such practice of the licensing authority, particularly, the District Magistrate, Patna.

The writ application was registered on 04.04.2017 and the order has been passed on 11.10.2017, the petitioner's application for grant of licence of N.P. Bore Rifle has been rejected on the ground that public peace and public security would be adversely affected and that the licensing authority is not satisfied to grant licence. Moreover, the petitioner has not explained the adequate reasons to develop his case for grant of arm licence.

In the circumstances, without expressing any opinion on the merits of the impugned order, this Court, at present, is not inclined to interfere only on the ground that when an alternative remedy of appeal is available under Section 18 of the Arms Act, 1959(hereinafter referred to as 'the Act'). However, this Court permits the petitioner, if so advised, to prefer appeal before the appellate authority, i.e. Respondent No.3, the Divisional



Commissioner, Patna, within a period of three weeks from the date of receipt/production of a copy of this order along with an application for condonation of delay. It is expected from the appellate authority to consider the application of the petitioner, particularly the prayer for condonation of delay in filing of the appeal, on its filing, within a period of six weeks, keeping in view the fact that the writ application is pending before this Court since 04.04.2017 and the licensing authority has passed the order after six months of registration of writ application as well as considering the parameters provided under the Act, particularly, Rule 12 of the Arms Rules, 2016, which prescribes the obligation on the licensing authority in certain cases. Sub-Rule 3 of Rule 12 mandates that any person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and/or property.

With the above observations, this writ application is accordingly disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

