

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12082 of 2018

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Gajendra Prasad Yadav, Son of Late Nagendra Prasad Yadav, Resident of
Village – Usri Kala, Police Station – Isuapur, District – Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Saran at Chapra.
3. The District Magistrate, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Sub Divisional Magistrate, Sadar, Chapra.
6. The Arms Magistrate, Chapra.
7. The Sub Divisional Police Officer, Saran.
8. The Station House Officer, Isuapur Police Station, District – Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Amrendra, Advocate
Mr. Sanjana, Advocate

For the Respondent/s : Mr. Parth Sarthi - GA-4
Mr. Ustav Kumar, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 16-07-2018

Heard Dr. Amrendra, learned counsel for the
petitioner and Mr. Ustav Kumar, learned AC to GA-4.

The present writ application has been filed for
quashing the order dated 15.02.2018, as contained in Annexure-2,
passed in Arms Appeal No. 191 of 2017 by Respondent No. 2,
Divisional Commissioner, Saran at Chapra, whereby the Arms



Appeal of the petitioner has been rejected on the sole ground that the appeal is barred by limitation. The prayer has also been made for quashing the order dated 23.05.2017, as contained in Annexure-1, passed in Arms Licence Case No. 248 of 2016 passed by Respondent No. 3, District Magistrate, Saran at Chapra, whereby the petitioner's application for grant of licence for N.P. Bore Rifle has been rejected on the sole ground that the police report does not stipulate that the petitioner has threat perception, hence, licensing authority came to conclusion that only for a status symbol, the petitioner has made application for grant of arms licence. If licence is granted so liberally then it might be used frequently even for petty dispute by the licence holder.

It is submitted by learned counsel for the petitioner that the father of the petitioner got an Arms Licence No. 69 of 1996 for N.P. Bore Rifle No. AB97-4192 and it was renewed regularly, but after the death of the father of the petitioner, the rifle was deposited in Arms dealer namely, Pratap Gun House, Hathua Market, Saran, Chapra on 28.08.2010 and there was no complaint with regard to the misuse or violation of the terms of the arms licence. It is further submitted by learned counsel for the petitioner that the application for grant of licence for a N.P. Bore Rifle was submitted on 23.08.2012 before the



licensing authority when licensing authority, though, passed the order on 23.05.2017 but failed to consider the preference being given to the heirs or the nominee of the licensee, as stipulated under Rule 25 of the Arms Rules, 2016. Moreover, Sections 13 and 14 of the Arms Act, 1959 do not stipulate any such condition that when one has threat to his life only then he can be granted licence for arms. Hence, rejection of the application for grant of arms licence on any such condition makes the provision under Sections 13 and 14 redundant. It is further contended that the District Magistrate rejected the application of the petitioner on 23.05.2017 and the petitioner submitted a requisition for getting the certified copy of the order on 15.06.2017, i.e., only after 22 days after passing of the order, but the certified copy was prepared on 19.12.2017 and subsequently, the Arms Appeal was filed on 26.12.2017. Hence, considering the period taken in preparation of the certified copy of the order passed by the District Magistrate there was no limitation but this fact was not considered by the Appellate Authority, as gets reflected from the order passed by the Appellate Authority.

Learned AC to GA-4 does not dispute this fact that District Magistrate passed the order on 23.05.2017 and the appeal was filed before the Divisional Commissioner on



26.12.2017 with delay of seven months but concedes that the Appellate Authority did not consider this fact that about six months was taken in preparation of the certified copy of the order by the office of the District Magistrate.

Considering the rival submissions of the parties, this Court is of the view that every citizen has statutory right to make application for grant of licence and if the statute provides a forum of appeal, the appeal should not be dismissed on a technical ground of limitation, particularly, when this fact has not been disputed by the learned counsel for the State that about six months time was taken by the office of the District Magistrate in preparation of the certified copy of the order passed by the District Magistrate.

In the circumstances, the appellate order dated 15.02.2018 passed in Arms Appeal No. 191 of 2017 by Divisional Commissioner, Saran at Chapra is set aside, since the appeal has not been considered on merits. Accordingly, the matter is remitted back to Respondent No. 2, Divisional Commissioner, Saran at Chapra and he is expected to consider the application for the condonation of delay in filing the appeal and decide the appeal within a period of six weeks from the date of receipt/production of a copy of this order.



It is made clear that this Court has not expressed any opinion with regard to the merits of the case or the order passed by Respondent No. 3, licensing authority –cum- District Magistrate, Saran at Chapra.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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