

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20183 of 2016

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Niraj Kumar Son of Bharat Singh Resident of Village-Nadauna, P.S.-
Bhagwanganj, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner Patna Division, Patna
3. The District Magistrate, Patna
4. The Superintendent of Police , Patna
5. The Officer in Charge Bhagwanganj, Police Station, District-Patna
6. . null null

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pratap Sharma
For the Respondent/s : Mr. Ravi Verma, AC to GP 4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-10-2018 Heard learned counsels for the parties.

The present writ application has been filed for quashing the order dated 04.02.2016 passed by Respondent No. 3, the District Magistrate, Patna as contained in Annexure 5, whereby the application submitted by the petitioner for grant of licence for double barrel gun has been rejected.

It is submitted by learned counsel for the petitioner that this is the second time that the lis has reached to this Court. The petitioner made application for grant of licence in 2004 and initially the Respondent No. 3, District Magistrate, Patna rejected the same which was challenged in Appeal No. 257 of 2007 before the Respondent No.2, Divisional Commissioner,



Patna who vide order dated 25.8.2011, as contained in Annexure 1 set aside the order of the District Magistrate on the ground that no reason has been assigned for rejection of the petitioner's application and remanded the matter for passing a fresh order. Thereafter, the Respondent No. 3, District Magistrate, Patna rejected the application of the petitioner vide order dated 16.4.2013 on the ground that the petitioner is not having any threat perception. The said order was challenged in CWJC No. 9569 of 2014 and this Court vide order dated 18.1.2016 set aside the order and directed the licensing authority, the Respondent No. 3, District Magistrate, Patna to dispose of the application of the petitioner since the absence of threat perception cannot be a ground of rejection of the application for grant of licence and thereafter, ultimately, now vide impugned order dated 7.9.2016 the petitioner's application for grant of licence has been rejected on the ground that the grant of licence will affect the public peace and safety and that no sufficient reason has been shown by the petitioner.

Without expressing any opinion on the merits of the case, this Court is simply not inclined to interfere since the petitioner is having alternative remedy of appeal under Section 18 of the Arms Act, 1959.



In the circumstances, this Court, in the interest of justice, permits the petitioner to prefer appeal before the appellate authority, i.e., the Divisional Commissioner, Patna Division against the impugned order along with an application for condonation of delay within a period of four weeks from the date of receipt/production of a copy of this order. It is expected from the Appellate Authority to consider the application for condonation of delay since the present writ application was pending before this Court. It is further expected from the Appellate Authority to decide the appeal without being prejudiced by this order, as this Court has not expressed any opinion on the merits of the case, preferably within a period of eight weeks of its filing.

With the aforesaid, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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