

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17155 of 2018

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Mohammad Rijavan Alam, S/o Abdul Rashid, Resident of Village- Islampur,
P.S. Parbatta, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The Sub-Divisional Officer, Gogari, District- Khagaria.
5. The Deputy Collector, In-charge, Arms License, Khagaria.
6. The Sub-Divisional Police Officer, Khagaria.
7. The Officer-In-Charge of Parbatta, P.S. District- Khagaria.
8. The S.H.O., P.S.- Parbatta, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh
For the Respondent/s : Mrs. Babita Kumari, AC to SC 1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 10-09-2018 Heard learned counsels for the parties.

The present writ application has been filed for quashing the order dated 04.03.2017 passed by Respondent No. 2, the District Magistrate, Khagaria in Arms License Record No. 7 of 2017 on the ground that the petitioner is not having any threat perception.

Without expressing any opinion on the merits of the case, this Court is of the view that the discretionary jurisdiction under Article 226 of the Constitution of India is usually exercised when there is no efficacious alternative remedy available. However there are certain exceptions, as has been enumerated



by the Apex Court in the case of Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Ors., reported in (1998) 8 Supreme Court Cases 1. Paragraph 15 of the judgment reads as follows:

“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bare in at least three contingencies, namely, where the Writ Petition has been filed for the enforcement of any of the Fundamental rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

Since Section 18 of the Arms Act, 1959 stipulates the statutory provision of appeal, the petitioner is permitted to prefer appeal against the impugned order along with an application for condonation of delay within a period of three



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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