

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11011 of 2017

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Neeraj Kumar Singh Son of Gajendra Singh Resident of Mohalla - Ajanta Colony, C - 17, P.O. - Keshari Nagar, P.S. - Patliputra, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. Station Head Officer, Patliputra, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Braj Bhushan Mishra
For the Respondent/s : Mr.Md. N.H. Khan-Sc1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 01-05-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Petitioner is aggrieved by the order cancelling the
gun license.

3. Learned counsel for the petitioner would submit
that petitioner is businessman, applied for grant of gun license
of D.B.B.L. Gun. The SHO, Patliputra police station after due
enquiry and verification recommended for grant of D.B.B.L.
gun in favour of the petitioner. The licensing authority after
perusal of the report of the police officer and the material
available on record granted license of arms of D.B.B.L. gun in
favour of petitioner vide License No. 217/2013. After grant of



license the petitioner found defect in the D.B.B.L. gun and thereafter filed application before District Magistrate, Patna for conversion of the arms as N.P. Bore Revolver in place of D.B.B.L. gun in the year 2013.

4. The application of the petitioner was rejected without opportunity of hearing. To that effect specific statement has been made in para-14 of the writ application which is quoted below:-

“That it is stated that vide memo no. 2627 dated 31.08.2016 the District Magistrate, Patna cancelled the license of D.B.B.L. gun of the petitioner without giving any show cause notice to him in the arbitrary and illegal manner ignoring the mandate and norms of law”.

5. Learned counsel appearing on behalf of the petitioner would submit that this fact is not disputed in the counter affidavit and from perusal of the counter affidavit the Court does not find any specific reply to the averment made in para-14 of the writ application.

6. In view of principle of non-traverse, the Court has to proceed as if the averment made in para-14 has not been controverted in view of the judgment of the Apex Court in the case of **State of U.P. vs. Naseem Bano AIR 1993 SC 2592**

In view of the aforesaid, the order contained in Annexures-4 and 5 cannot sustain. It is accordingly, quashed.



The matter is remitted back to the District Magistrate, Patna to take fresh decision after opportunity of hearing to the petitioner.

8. Necessary fresh decision may be taken by the District Magistrate, Patna within a four months from the date of receipt/production of a copy of this order.

9. With the aforesaid, the writ petition is allowed and disposed of.

(Anil Kumar Upadhyay, J)

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