

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3145 of 2016

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Birendra Narayan Singh Son of Late Harivansh Narayan Singh Resident of
Sidhigaht, Police Station Hajipur town, District Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate, Vaishali at Hajipur.
3. The District Arms Magistrate, Vaishali at Hajipur.
4. The Superintendent of Police Vaishali at Hajipur.
5. The Sub Divisional Police officer, Hajipur. null null
6. The Station House Officer, Hajipur town District Vaishali.
7. The Station House Officer, Bidupur , District Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dinesh Maharaj
For the Respondent/s : Mr.Gp25- Mani Kant Mishra

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

20 15-05-2019 1) Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2) The only controversy involved in the present writ
application is whether the petitioner is entitled to renewal of .38
bore revolver or not?

3) The license of .38 bore revolver was granted by the
District Magistrate, Vaishali. From the scheme of the rule
notified in official gazette it appears that .38 bore revolver falls
in the category of restricted arms. For grant of restricted arms
the licensing authority is Central Government in the Ministry of
Home Affairs. The renewing authority is District Magistrate.



4) The original license of the petitioner was granted in the year 1989 there are document on record which categorized .38 bore revolver as prohibited gun whereas other document indicate that the arms is restricted gun. There is no rub on the point that today .38 bore revolver is not in the category of restricted arms and as such is not admissible to a person on grant of license by the State Authority, Central Government is the appropriate authority for grant arms license for .38 bore revolver.

5) Learned senior counsel appearing on behalf of petitioner submits that under the scheme of the Rule the renewing authority is District Magistrate and therefore, this Court should grant indulgence to the petitioner and direct the District Magistrate, Vaishali to renew the arms license of .38 bore revolver of the petitioner.

6) On the other hand Mr. S.D. Sanday, learned Additional Solicitor General submits that there is no case of renewal of license by the District Magistrate, Vaishali when the arms falls in the restricted category. The expression prohibited category and restricted category has two different context (1) prohibited category means the category of arms which is not admissible to any individual: whereas; (2) restricted category of



arms means classified people are entitled to retain such arms. Admittedly, the petitioner does not fall in the category of classified category of people entitled to retain .38 bore revolver and as such at this stage the Court is not inclined to grant indulgence to petitioner for renewal of .38 bore revolver license as that would amount to granting gun license of restricted category to the petitioner.

7) The arms license was granted to the petitioner by the State Authority with open although it is in the restricted category and for the acts and omission of the State the petitioner cannot be made to suffer at both ends i.e. he has to lose the .38 bore revolver and at the same time arms license.

8) Learned counsel appearing on behalf of State submits that since the petitioner has purchased the .38 bore revolver the State has no obligation in the matter of restitution by way of either paying cost of the .38 bore revolver or to allow the petitioner to sale the .38 bore revolver to the categorized people eligible for purchase of restricted arms.

9) In order to scale the ends of justice the court in the fact of the case deem it fit and proper to direct the State Authority to consider the case of the petitioner for grant of arms license for permissible category within a maximum period of 30



days after general election. While granting license the District Magistrate as well as the Ministry of Home Affairs, Government of Bihar shall allow the petitioner to sale out .38 bore revolver to any of the person classified as authorized to purchase restricted arms or in the alternative pay the compensation in the nature of payment of cost of the revolver to the petitioner.

10) Necessary decision in the matter of permission to the petitioner to sale .38 bore revolver to the classified category of people or in the alternative to pay the price of .38 bore category of revolver to the petitioner shall be taken by the respondent nos. 1, 2 and 8 within a further period of 90 days from the date of receipt/production of copy of the order of this Court.

11) With the aforesaid, the present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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