

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10084 of 2019

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Sayeed Alam, S/o Late Majid Alam, Resident of Mohalla-Mirghyas Chak,
P.O.- Lalbagh, P.S.- Laheriasarai, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Darbhanga.
3. District Arms Magistrate, Darbhanga.
4. Additional District Magistrate (Arms), Darbhanga.
5. Divisional Commissioner, Darbhanga.
6. Sr. Superintendent of Police, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manisha Pandey
For the Respondent/s : Mr.Manish Kumar (GP-4)
Mr. Manoj Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT
Date : 18.09.2019

The present writ petition has been filed for quashing the order dated 25.01.2019 passed by the District Magistrate, Darbhanga, whereby and whereunder the application of the petitioner for grant of N.P. Bore Rifle license has been rejected.

The brief facts of the case, according to the petitioner, is that the petitioner is a Director of School, namely, Spring Dele Public School and is a member of Darbhanga Rifle Club as well as Bihar State Rifle Association, Patna, Bihar. The petitioner is stated to have applied for grant of a N.P. Bore Rifle license for shooting competition before the office of the District



Magistrate, Darbanga on 30.01.2017. It appears that the District Magistrate, Darbhanga by an order dated 19.07.2017 had rejected the application of the petitioner for grant of arms license on the ground that the petitioner was not having any threat to his life during the present time and the petitioner was already having two arms license. It was also observed in the said order dated 19.07.2017 that the petitioner has filed the application for grant of arms license for the purposes of training and target practice, however, no evidence has been produced with regard to the same. The petitioner had then challenged the aforesaid order dated 19.07.2017 by filing Arms Appeal No. 4 of 2017 before the Commissioner, Darbhanga Division, Darbhanga, who had allowed the appeal of the petitioner and remanded the matter back to the District Magistrate, Darbhanga to re-consider the case of the petitioner. In the said order dated 20.11.2018, the Commissioner, Darbhanga Division, Darbhanga had observed that the petitioner had filed application for grant of arms license for the purposes of acquisition of arms for sports and target practice. It has been further observed in the said order dated 20.11.2018 that the petitioner herein has taken part in the State Level and National Shooting Sports Competition, and therefore, the case of the petitioner can be



considered under Rule 36 of the Arms Rules, 2016 which provides for grant of arms license for training and target practice. It has also been observed by the Commissioner, Darbhanga Division, Darbhanga in his order dated 20.11.2018 that though the petitioner had filed an application for grant of arms license for N.P. Bore Rifle for the purposes of sports and target practice, nonetheless, the District Magistrate, Darbhanga has rejected his application on the ground that the appellant does not have any threat to his life. The District Magistrate, Darbhanga, after remand of the matter to him, has considered the entire matter and passed the impugned order dated 25.01.2019, whereby and whereunder the application of the petitioner for grant of arms license has been rejected on the ground that the petitioner has only produced certificate of Competition & Identity Card, however, he has failed to produce any proof of his shooting membership much less having produced any proof of him having participated in any shooting competition during the recent times.

The learned counsel for the petitioner has assailed the aforesaid order dated 25.01.2019 by relying on an order dated 09.04.2019 passed by the learned Coordinate Bench of this Court in *CWJC No. 7128 of 2019 (Jai Prakash Yadav vs. the*



State of Bihar & ors.) to contend that in terms of the Arms Rules, 2016, the existing licensee can apply for grant of additional arms license in case the applicant is already holding arms license. The learned counsel for the petitioner has also relied on a judgment dated 21.12.2018 passed by a Coordinate Bench of this Court in ***CWJC No. 2182 of 2018 (Rajendra Kumar Singh vs. the State of Bihar & Ors.)*** to contend that in case the applicant for arms license is already having a valid arms license, then his case for grant of additional license is required to be considered within the parameters of Rule 15(4) to (6), Rule 18 and Schedule-5 of the Arms Rules, 2016. The learned counsel for the petitioner has also relied upon the certificate issued by the Bihar State Rifle Association, Patna, Bihar of the year, 2013 to show that the petitioner had participated in Bihar State Shooting Championship, 2013. The learned counsel for the petitioner has further relied upon Shooters I.D. Card issued to the petitioner by the National Rifle Association of India, which is undated as also certificate of Darbhanga Rifle Club showing the petitioner to be its member and the competitor's card issued by the Bihar State Rifle Association, Patna both of the year 2016.

Per contra, the learned counsel for the respondent



State, by referring to the records of the case, which was summoned by this Court, has stated that the petitioner had applied on 12.01.2017 for grant of arms licence for the purposes of “Sport & Target Practice” and had mentioned at serial no. 18 of the said application under the heading “Claims for special consideration for obtaining the license, if any, (attach documentary evidence)”, that he is a life member of Darbhanga Rifle Club and participates in shooting competition, hence, license is required. The petitioner had also enclosed N.R.A.I. Shooting I.D. Card, which were found inadequate by the District Magistrate, Darbhanga for granting license for the purposes of Training & Target practice. Hence, the application of the petitioner was again rejected by the learned District Magistrate, Darbhanga, even after the matter was remanded back to him by the Commissioner, Darbhanga Division, Darbhanga and the District Magistrate, Darbhanga had rightly passed the impugned order dated 25.01.2019.

I have heard the the learned counsel for the parties and perused the materials on record. At the outset, it would be relevant to reproduce the relevant rules of the Arms Rules, 2016 herein below:-

“36. Licence for training and target practice.— (1) Any person below the age of twenty-one years but not below the age of twelve years may be allowed to use



permissible category of arms for the purposes of training in the use of such arms in the immediate presence, or, under the direct supervision and guidance, of an adult instructor or the licensee: Provided that no person below the age of twenty-one years shall be allowed, to carry any permissible category of arms requiring a licence in a public place except in the immediate presence and supervision of the person who is lawfully authorised to carry such arms by the licensee.

(2) Any person who applies for a licence to possess permissible category of arms in Form III in order to practice sport shooting shall be required to show evidence that he participates in such activities or that he is in a structured learning process.

(3) The use of arms that are licensed for the purpose of sport shooting shall be limited to practice and competition at sport shooting clubs or at shooting ranges.

(4) A dedicated sports person, holding a licence in Form III shall be able to lend his arms temporarily for a period not exceeding three months for the purpose of sport only to another dedicated sports person lawfully entitled to possess such type of armband subject to the conditions that —

(a) the arm is used by the borrower in the presence of the licence holder or under his written authority along with a certified copy of his licence, which shall show the number and other identification marks of the arm and the period for which it is lent;

(b) in the event of the arm being misused by, or stolen or lost due to the gross negligence of the borrower, the licence of the lender thereof shall be liable to be revoked in addition to being liable to be prosecuted under the provisions of the Act; and

(c) the borrower shall, on demand produce proof of such lending.

(5) Where in the absence of lender, the borrower of arms under sub-rule (4), intends to take the arms and ammunition to a shooting range for training or target practice or participation in a shooting competition, he shall carry a written authority in Form V-A signed by the lender in respect of the arms and ammunition and in the area and for the period



specified in the said written authority along with a certified copy of the arms licence of the lender: Provided that where the arms or ammunition are intended to be taken out of the State, the written authority shall be attested by the President or Secretary of the district or State rifle association, with whom such lender is registered.

Explanation.— For the purpose of this rule, an “adult” means a person who has completed the age of twenty-one years.

40. Quantity of ammunition to sports persons, shooting associations, etc.— (1) *The quantity of ammunition allowed to various categories of sports persons for their personal consumption and shooting sport organisations shall be as per the limits laid down in the table given below, namely:-*

TABLE

Sl. No.	Persons or class of persons	Type of firearms	Quantity and description of each kind of ammunition	
			To be possessed at any one time	Purchasable during the year
1.	Arjuna awardee	All	100000 for all types of firearms collectively	200000 for all types of firearms collectively
2.	International medalist/renowned shooter	Rifle/Pistol.22 LR; Center-fire rifle with caliber up to 8 mm; Revolver/pistol; Shotgun of caliber up to 12 bore/gauge	50000 for all types of firearms collectively	100000 for all types of firearms collectively
3.	Junior target shooter	Rifle/Pistol.22 LR; Center-fire rifle with caliber up to 8 mm; Revolver/pistol; Shotgun of	100000 for all types of firearms collectively	30000 for all types of firearms collectively



		caliber up to 12 bore/gauge		
4.	Aspiring shooter	Rifle/Pistol.22 LR; Center-fire rifle with caliber up to 8 mm; Revolver/pistol; Shotgun of caliber up to 12 bore/gauge	15000 for all types of firearms collectively	30000 for all types of firearms collectively
5.	Other shooters (not falling under S. No. 1 to 4 above) holding valid arms licences and who are also members of National Rifle Association of India or affiliated State Rifle Association(s) of NRAI or shooting clubs/District Rifle Association affiliated with State Rifle Association	.22LR Rifle/Pistol Any other pistol/Revolver caliber Any other Rifle/Shotgun caliber	500 300 200	1000 600 500
6.	National Rifle Association of India. Affiliated State Rifle Association(s) with NRAI. Shooting clubs/District Rifle Association(s) affiliated with State Rifle Association. All shooting clubs affiliated to the State Rifle Association or the National Rifle Association of India. All shooting ranges under the Sports Authority of India or the Sports Authority of the State Governments.	Upper limit on the quantity of ammunition, to be decided by the licensing authority based on the recommendations of the Certifying body.		

Note:-Shotgun calibers of caliber up to 12 bore/gauge, mean and include the lesser calibers of 16, 20, 28 and 410 bore,etc.

(2) For the purposes of this rule, certifying bodies and certification contents shall be as specified in the table given below, namely:-



TABLE

Sl.No.	Category of sports person	Certifying body	Certifying conditions
1.	Arjuna Awardee	Government of India in the Department of Sports, Ministry of Youth Affairs and Sports	The certificate shall state that the award was conferred for excellence as a shooter
2.	International medalists/renowned shooters	National Rifle Association of India (NRAI)	The certificate shall state that the medal has been won by the international medalists in the international championships and in case of renowned shooters the merit certificate shall mention the qualifying score along with the Minimum Qualifying Score (MQS) for the event as specified by NRAI
3 & 4.	Junior target shooter/aspiring shooter	National Rifle Association of India or the approved or affiliated State Association(s) of NRAI	The certificate shall mention the qualifying score along with the Minimum Qualifying Score for the event as specified by NRAI or the State Rifle Association
5.	Other shooters	National Rifle Association of India or affiliated State Association(s) of NRAI or shooting Clubs/District Rifle Association affiliated with State Rifle Association.	The certificate shall state the membership and other details of the shooter
6.	Shooting	State Rifle	



	Clubs/District Rifle Associations affiliated with State Rifle Association or National Rifle Association of India.	Association or National Rifle Association of India as applicable	
	State Rifle Association	National Rifle Association of India	
	National Rifle Association of India	Ministry of Youth Affairs and Sports	
	Shooting Ranges	Sports Authority of India/Sports Authority of the State Government/ National Rifle Association of India	

Explanation. — For the purposes of this rule,

*(a) “**international championship**” means the Asian Games, the Asian Shooting Championship, the Asian Women or Asian Junior Shooting Championship, the Commonwealth Games, the Commonwealth Shooting Championships, the Olympic Games, the World Junior or Senior Shooting Championships and the World Cups in Senior as well as Junior events;*

*(b) “**international medalist**” means a person who has won an individual or team medal in an international championship;*

*(c) “**renowned shooter**” means a person who has participated in a National Shooting Championship in an Open Men’s Event or Open Women’s Event or Open Civilian’s Event whether through qualifying tournament or wild card entry conducted in accordance with the rules of International Shooting Sports Federation (ISSF) and has attained the Minimum Qualifying Score prescribed by the National Rifle Association;*

*(d) “**junior target shooter**” means a person who has completed the age of twelve years but is below the age of twenty-one years and has taken part in at least one State Championship (held once a year)*



or in the Zonal Championship or National Level Shooting Competition recognised by National Rifle Association and/or by respective State Rifle Association;

(e) “aspiring shooter” means a person who has taken part in at least one State Championship (held once a year) or in the Zonal Championship or National Level Shooting Competition recognised by National Rifle Association and/or by respective State Rifle Association and attained the prescribed Minimum Qualifying Score specified by the National Rifle Association of India.

15. Maintenance of records in electronic format and consolidation of licences.— *(1) Every licensing authority and the renewing authority specified in Schedule II, while granting a license or renewing a licence, thereof, shall enter the data of the record locally in an electronic format specified by the Central Government.*

(2) Every licensing authority and the renewing authority shall also enter such data in the NDAL system which shall generate a unique identification number (UIN) and with effect from the 1st day of April, 2017, any arms license without UIN shall be considered invalid.

(3) The UIN so generated under sub-rule (2) shall be unique for a licensee.

(4) Any existing licensee holding multiple licences in Form III shall on or before the 1st day of April, 2017, make an application for grant of a single licence in respect of all the firearms held by him under his UIN, to the concerned licensing authority: Provided that where the applicant applying a licence for restricted category of arms or ammunition specified in Schedule I is also a holder of a licence for permissible category of arms or ammunition specified in the said Schedule; or where the applicant, applying for permissible category of arms or ammunition is also a holder of a licence for restricted category of arms or ammunition specified in the said Schedule, the licensing authority concerned shall issue a new licence for such restricted or



permissible category of arms or ammunition, as may be applicable, under the existing UIN of the licensee: Provided further that separate licence books shall be generated in case of each licence in Form II, Form III and Form IV and in case of a licence in Form III, separately for restricted and permissible categories of arms and ammunition specified in Schedule I, with an overall ceiling of three firearms under a single UIN.

(5) The licensing authority on receipt of an application from a multiple licence holder under sub-rule (4) shall cancel the existing multiple licences of the 14 applicant and issue in lieu thereof, a new licence endorsing therein, all the existing firearms of the said licensee.

(6) The period of validity of the new licence so issued by the licensing authority under sub-rule (5) shall be the farthest period as mentioned in any of the cancelled licences and the area validity endorsed on the new licence shall be the more extensive area in any of the cancelled licences.

18. Permission for possession of arms to be acquired subsequent to grant of licence.—*When a licence is granted in Form II, Form III, Form IV or Form V for the possession of arms to be acquired by the licensee subsequent to the grant of the licence, the authority granting the licence shall at the time of granting the same, direct that the arms covered by the licence shall be acquired within a period of two years and that the licence or the arms or both shall be produced for his inspection and if within the said period of two years, the licensee fails to acquire the arms and to produce the licence, or the arms or both, as the case may be, the licence shall cease to be in force: Provided that the licensing authority may extend the period of two years by a further period of one year, on the basis of a written representation received from the licensee and after recording the reasons for granting such an extension: Provided further that if during the period of two years or the extended period of one year, as the case may be the licensee*



wishes to acquire and possess any arm or arms of a different description and the licensing authority has no objection to allow the acquisition and possession of such arm or arms, he may amend the licence accordingly: Provided also that where the licensee changes his place of residence, after the grant of licence but before acquisition of any arm, he may produce the licence or arm or both for inspection before the licensing authority of the place of his new residence to which the licensee may have shifted and the said authority on inspecting the arm, shall register and update the information on NDAL system: Provided also that the provisions contained in this rule shall apply mutatis mutandis to any acquisition of an additional arm or arms which the licensee may desire to acquire subsequent to grant of licence on account of sale or transfer or disposal of the arm or arms already possessed or otherwise as a fresh acquisition subject to the overall limit of three firearms.”

First of all, coming to the reliance of the learned counsel for the petitioner placed on the aforesaid two judgments rendered in the case of Jai Prakash Yadav (supra), this Court finds that such reliance is wholly misplaced inasmuch as the present case pertains to grant of arms license to the petitioner under the category **“license for training and target practice”**. The District Magistrate, Darbhanga, in his order dated 25.01.2019, has nowhere said that the petitioner is not entitled for grant of arms license for the purposes of training and target practice in terms of Rule 36 of the Arms Rules, 2016, however, the ground for rejection of the case of the petitioner is that the petitioner has failed to bring on record sufficient proof to show



that during the recent times, he has participated in shooting competitions or he is having shooter membership.

Thus, this Court finds that the issue to be decided in the present case is as to whether the petitioner is entitled to grant of arms license for training and target practice in accordance with the provisions contained in Rule 36 of the Arms Rules, 2016, or not. This Court finds that for the purposes of grant of a license, in order to practice sport of shooting, the applicant is required to show evidence that he participates in such activities or that he is in a structured learning process. In fact Rule 40 sub-clause (2), Explanation (a), (b), (c), (d) and (e) very clearly define the expressions “International Championship”, “International Medalist”, “Renowned Shooter”, “Junior Target Shooter”, “Aspiring Shooter”. From a bare perusal of the Explanation appended to Rule 40(2) of the Arms Rules, 2016, it is apparent that the petitioner does not fall within the category of “International Championship”, “International Medalist”, “Renowned Shooter”, “Junior Target Shooter” and at best the category available for the petitioner can be that of an “Aspiring Shooter”. It is the case of the petitioner that the petitioner wants to acquire a N.P. Bore rifle license for the purpose of shooting competition, as has been averred in paragraph no. 3 of the writ



petition. Thus the case of the petitioner has to be examined in light of the provisions contained in the Arms Rules, 2016, referred to herein above, which postulates that for the purposes of acquiring license for training and target practice, such a person should show that he has participated in shooting activities or that he is in a structured learning process. Since the Explanation (e) to Rule 40(2) of the Arms Rules, 2016, the only provision in the entire rules which can be relied upon for interpreting/expounding/determining the requirements prescribed under Rule 36(2) of the Arms Rules, 2016, defines an “aspiring shooter” to be a person who has taken part in at least one State Championship, “ held once in a year” or in the Zonal Championship or National Level Shooting Competition recognized by the National Rifle Association and/or by the respective State Rifle Association and has attained the prescribed minimum qualifying score specified by the National Rifle Association of India, the case of the petitioner will have to be examined on the said basis and this Court finds that there is no proof which has been brought before this Court to show that the petitioner’s case can fall within the ambit of “aspiring shooter”. Even otherwise, the petitioner has only appended certificate issued by the Bihar State Rifle Association pertaining



to participation of the petitioner in the Bihar State Shooting Championship, 2013 wherein his rank/position has also been mentioned but the same is of the year 2013 i.e. six years old. Thereafter, no such certificate showing the rank/position of the petitioner herein in the Rifle Competition either organized by the State or at National Level has been produced by the petitioner as annexures to the present writ petition and merely a competitors' card issued by the Bihar State Rifle Association, Patna of the year 2016 has been produced which does not show as to whether the petitioner has actually participated in the shooting championship or not. The only other documents produced by the petitioner is shooter's I.D. card stated to have been issued by the National Rifle Association of India, however, the same is undated, hence is of no value and a certificate issued by the Darbhanga Rifle Club of the petitioner being its member, which also does not show that the petitioner is in a structured learning process.

Having regard to the facts and circumstances of the case and considering the materials available on record, as discussed herein above as also having perused the orders passed by the learned Commissioner, Darbhanga Division, Darbhanga dated 20.11.2018 and the impugned order dated 25.01.2019



passed by the District Magistrate, Darbhanga, this Court finds that the petitioner has not furnished any evidence or proof to show that after the year 2013, he has ever participated in any shooting competition and further there is no evidence to show that the petitioner is in a structured learning process, hence, this Court finds that there is no infirmity in the order passed by the learned District Magistrate, Darbhanga dated 25.01.2019 as also this Court is of the opinion that the petitioner is not entitled for grant of license for 'training and target practice' under Rule 36 of the Arms Rules, 2016, on the basis of the materials produced by the petitioner before this Court.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	11.09.2019
Uploading Date	19.09.2019
Transmission Date	

