

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17707 of 2018

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Raj Narayan Tiwari Son of Late Dharmnath Tiwari Resident of At P.O. Baliya
- Via Tarwara, P.S. - Maharajganj, District - Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Commissioner, Saran Division, Chhapra.
4. The District Magistrate, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumar Kaushik
For the Respondent/s : Mr.Sheo Shankar Prasad- Sc8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 24-04-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Petitioner is aggrieved by the order dismissal for
default Annexure-5 and the order of refusing restoration of
application for renewal Annexue-6 and the order of
Commissioner Annexure-7.

3. Learned counsel for the petitioner has drawn
attention to the order passed by the District Magistrate
contained in Annexure-5.

4. Learned counsel submits that rejection is only on
the ground of delay notwithstanding the fact that the application
was supported by the medical certificate. Medical certificate



was disbelieved by the Collector only on the ground that the certificate was issued by the homeopathic practitioner. The matter was taken to the appellate court i.e. Commissioner, Saran Division, Chapra but unfortunately the Commissioner instead of recording finding on the merit of the appeal has passed cryptic order saying that I find that learned District Magistrate has appropriately rejected the same. I do not find any apparent error in the said finding of the District Magistrate and for the aforesaid reason, the Commissioner upheld the impugned order and rejected the appeal being devoid of merit.

5. The manner in which the Commissioner passed appellate order, it appears that he has exercised power not an appellate authority but revisional authority.

6. The scope of appeal is very wide where the appellate statutory authority is under obligation to review the entire merit and not to confine scrutinize only on jurisdictional error.

7. Considering the totality facts and circumstances, the Court finds that there is complete error of justice at the level of the Collector as well as Commissioner.

8. Accordingly, Annexure-5 order of dismissal for default and the order of refusing restoration of application for



renewal Annexure-6 and the order of Commissioner Annexure-7 are hereby quashed.

9. The matter is remitted back to the District Magistrate for decision afresh after opportunity of hearing to the petitioner.

10. It is made clear that the scope of renewal is very specific under the Arms Act. The licensing authority is supposed to renew the arms license if there is no other legal impediment i.e. in the nature of abuse of privilege of license or any serious condition and pendency of serious criminal case otherwise renewal is a matter of course and cannot be refused if there is no departure for violation of the license.

11. Necessary decision in this regard may be taken by the respondents within a period of four months from the date of receipt/production of a copy of this order.

12. With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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