

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7289 of 2023

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Neeraj Kumar Alias Neeraj Kumar Singh S/o Ram Niwas Singh, R/o- Gram
and Post- Bijuliya, P.S.- Shamhoo, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar Patna.
2. The Divisional Commissioner, Munger Division.
3. The Collector-cum-District Magistrate, Begusarai.
4. The Superintendent of Police, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kundan Kumar, Advocate
For the Respondent/s : Mr.Md. Nadim Seraj (Gp5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 27-06-2023

1. The present writ petition has been filed seeking the
following reliefs:-

*“I. In the nature of Certiorari, for setting aside the
order dated 09.12.2022 passed in Arms Appeal Case
No.229 of 2022 by the Court of the Divisional
Commissioner, Munger whereby the petitioner’s
appeal against the order dated 17.05.2022 passed in
Arms License Case No.42 of 2022 has been rejected
on the grounds of limitation.*

*II. In the nature of Certiorari, for setting aside the
order dated 17.05.2022 passed in Arms License Case
No.42 of 2022 by the Court of Collector cum District
Magistrate, Begusarai whereby the petitioner’s*



application for grant of arms license was rejected.

III. For issuance of the writ, in the nature of mandamus directing the respondents, to re-consider the petitioner's application for grant of arms license in accordance with the provisions of the Arms Act, 1959 (for brevity, "The Act") and issue the license to the petitioner in accordance with law."

2. The learned Counsel for the petitioner submits that though the present writ petition has been filed challenging the order dated 09.12.2022, passed by the Divisional Commissioner, Munger Divisional, Munger in Arms Appeal Case No.229 of 2022, but it is submitted by the learned counsel for the petitioner that the appeal has not been decided on merits but has been dismissed on the ground of being filed after a considerable delay i.e. beyond the prescribed period of limitation.

3. The learned counsel for the petitioner has submitted that the original order rejecting the application of the petitioner for grant of arms license was passed on 17.05.2022, by the District Magistrate, Begusarai, in connection with Arms License Case No.42 of 2022, whereafter the petitioner had filed an application for grant of certified copy of the said order dated 17.05.2022 on 23.05.2022, which was, subsequently granted only on 28.10.2022 and immediately thereafter, the petitioner had filed the aforesaid appeal on 22.11.2022, along with a



petition for condonation of delay, however the same has not been considered and the appeal of the petitioner has been dismissed in limine, by the aforesaid order dated 09.12.2022.

4. Per contra, the learned counsel for the respondent-State has submitted that the impugned order dated 09.12.2022, would show that the certified copy of the order dated 17.05.2022, was supplied to the petitioner on 23.05.2022, itself, hence, admittedly there has been a considerable delay on the part of the petitioner in filing the aforesaid appeal. Nonetheless, the learned Counsel for the respondent-State is not averse to the idea of the matter being remanded back to the Divisional Commissioner, Munger Division, Munger, to be decided on merits.

5. Having regard to the facts and circumstances of the case and in the interest of justice as also with a view to balancing out the equities, apart from the fact that the impugned order dated 09.12.2022 has also not considered the petition, filed by the petitioner for condonation of delay, I deem it fit and proper to set aside the aforesaid order dated 09.12.2022, passed by the Divisional Commissioner, Munger Division, Munger, and remand the matter back to him for deciding the appeal afresh on merits.



6. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2023
Transmission Date	NA

