

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10276 of 2022

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Vijay Kumar Sharma Late Kailash Pati Sharma, Resident of Mohalla-
Langertoli, P.S.- Kadam Kuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. Additional District Magistrate (Arms), Patna.
5. District Arms Magistrate, Patna.
6. S.H.O. Kadam Kuan Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Manisha Pandey, Advocate
For the Respondent/s : Mr. Md. Nadim Seraj (GP 5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 13-03-2023

1. At the outset, the learned counsel for the petitioner seeks to file a supplementary affidavit, which is taken on record, wherein, in compliance of the order of this Court dated 23.02.2023, the DBBL Gun and Revolver being possessed by the petitioner has been deposited with the Malkhana In-charge, Kadamkuan Police Station, District-Patna and receipt thereof has been annexed as Annexure-12 to the supplementary affidavit, filed today in the Court itself.

2. The present writ petition has been filed seeking quashing of the order dated 01.08.2019, passed by the District Arms Magistrate, Patna in Miscellaneous Arms case no.



07-43/2018, whereby and whereunder the prayer of the petitioner for renewal of arms licence of DBBL Gun and N.P. Bore Revolver has been rejected and the arms licence has been cancelled with immediate effect.

3. The brief facts of the case are that the petitioner has been holding a DBBL Gun licence bearing Licence no. 1509/1996, against which he is possessing DBBL Gun as also the petitioner is holding a Revolver licence no. 1524/2001, against which also the petitioner had purchased a Revolver manufactured by Arminus Company, Germany. The said two licences were issued by the District Magistrate, Patna at the relevant time.

4. It is the case of the petitioner that on account of death of the mother of the petitioner on 02.04.2010, the arms and the licences could not be taken out from the iron safe on account of family dispute, however, subsequently, the petitioner had made a representation not only on 14.01.2023, for renewal of the arms licence but also subsequently, thereafter but no steps were taken by the District Arms Magistrate, Patna to renew the licence of the petitioner.

5. The learned counsel for the petitioner has submitted by referring to the various *challans* deposited from



time to time, which are annexed as Annexure-2, Annexure-7 and Annexure-8 series that up-to-date renewal fees for the aforesaid two licences along with the late fine has been duly deposited, nonetheless, the arms licence of the petitioner has been cancelled with immediate effect by the impugned order dated 01.08.2019, passed by the District Arms Magistrate, Patna, after receipt of the police report to the effect that the petitioner has been negligent in not renewing the arms licence on regular basis.

6. The learned counsel for the petitioner has further submitted that firstly, the petitioner has not been negligent in getting his arms licence renewed, inasmuch as the licence renewal fees has been deposited from time to time and moreover, on account of death of the mother of the petitioner and the ensuing family dispute, the petitioner could not take steps for renewal of the licences in question within the prescribed time. It is also submitted that as far as the police report is concerned, which can be found at page no. 28 of the writ petition, the Officer-in-charge, Kadamkuan PS has forwarded a report of the A.S.I. Kadamkuan Police Station dated 29.11.2014, wherein it has been stated that no adverse entry has been recorded in the police station against the petitioner, his



name and address is correct, his character is good and he has not ever misused both the arms, being possessed by him. Thus, it is submitted that despite the report being favourable, the District Magistrate, Patna, in the impugned order dated 01.08.2019, has considered the said report in an un-favourable manner, which is not only unjust but also illegal, hence, the impugned order dated 01.08.2019 is fit to be set aside.

7. *Per contra*, the learned counsel appearing for the respondent- State has submitted that the petitioner has shown gross negligence in getting his arms licences renewed, inasmuch as one of the arms licence was not renewed since the year 2010 while the other one was not renewed since the year 2008, hence, no sympathy should be shown to the petitioner.

8. I have heard the learned counsel for the parties and gone through the records, from which, it is apparent that the police report dated 29.11.2014 is in favour of the petitioner inasmuch as, he is stated to be having a good character as also he has not been alleged to have ever misused the firearms, being possessed by him apart from the fact that the petitioner has furnished reasons for not getting the arms licence renewed in time and moreover, the licence renewal fee, along with late fees, has been deposited by the petitioner from time to time vide



various challans, as aforesaid. This Court has also gone through the provisions contained in **Rule 27 (2) of the Arms Rules, 2016**, which is reproduced hereinbelow :-

“ (2) Where a licensee submits his application for renewal of his licence after the expiry of the period for which the licence was granted, the licensing authority may, if he decides to renew the licence, at his discretion, levy-

(a) full fee as for initial grant of the licence; and

(b) a late fee of rupees two thousand, if he is satisfied that the delay is not justifiable or excusable, nor serious enough to warrant revocation of the licence or prosecution of the licensee:

Provided that if an application for renewal for a licence in Form III is made within one month from the date on which the licence expires, no late fee may be leviable.”

9. This Court finds from a bare perusal of the aforesaid **Rule 27 (2) of the Arms Rules, 2016** that no time limit has been prescribed by the statute for renewal of the arms licence and the licensing authority has been vested with the discretion to renew the licence, in case, he finds that there exists justifiable reasons for submitting application for renewal of



licence belatedly and moreover, even if the licensing authority finds that the delay in filing application for renewal of arms licence is neither justifiable nor excusable nor serious enough to warrant revocation of the licence or prosecution of the licensee, the licence can be renewed after imposition of a late fee of Rs. 2,000/-. This Court also finds that there is neither any adverse report of any authority nor any whisper in the counter affidavit about the misuse of arms being possessed by the petitioner and on the contrary, the report of S.H.O., Kadamkuan Police Station dated 29.11.2014 as also the one dated 08.08.2021, which can be found at page no. 38 of the writ petition, are in favour of the petitioner. In such view of the matter, this Court finds that the said aspects of the matter have not been considered in a just and equitable manner by the District Arms Magistrate, Patna, while passing the impugned order dated 01.08.2019.

10. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, this Court deems it fit and appropriate to quash the order dated 01.08.2019, passed by the District Arms Magistrate, Patna and remand the matter back to him for fresh consideration, with an observation that he shall consider the aforesaid aspect of the matter, as pointed out by this Court in the preceding paragraphs and pass



an order afresh with regard to the case of the petitioner for renewal of his arms licences, within a period of four weeks of receipt/ production of a copy of this order.

It is needless to state that deposit of the arms by the petitioner in the *Malkhana* of Kadamkuan Police Station, Patna shall be subject to the final order to be passed by the District Arms Magistrate, Patna.

11. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	10.07.2023
Transmission Date	NA

