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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13539 of 2016

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M/s Premlata and Sons wife of Sri Vishwanath Pandey, through its proprietor Smt. Prem Lata Pandey, arms and Ammunition dealer, Adharshila Commercial Complex, Shop no. 16B, South Gandhi Maidan, Police Station Gandhi Maidan, Town and District-Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Home Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. Home Secretary, Home Police Department, Govt. of Bihar, Patna.
3. Joint Secretary Home Police Department, Govt. of Bihar, Patna.
4. Deputy Secretary, Home Police Department, Govt. of Bihar, Patna.
5. Under Secretary, Home Police Department, Govt. of Bihar, Patna.
6. Amir Subhani, Additional Chief Secretary-cum-Principal Secretary (Home), Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate
Ms. Manisha Pandey, Advocate
Mr. Deepak Kumar, Advocate
Ms. Shweta Pandey, Advocate
Mr. Sanket, Advocate

For the Respondent/s : Md.Nadeem Seraj, Advocate

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

CAV JUDGMENT

Date : 20-08-2025

Heard the parties.

The petitioner in the present writ application seeks the following main relief:

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> *"(i) To issue an appropriate writ(s), order(s), direction(s) in the nature of writ of Certiorari for quashing Memo No. 4849 dated 03.05.2024 (Annexure-P 35), whereby and whereunder Respondent authority has reiterated its earlier order dated 28.12.2016 (Annexure-1 of I.A. No. 9 of 2017) without considering the issues raised by the petitioner in her application; on erroneous grounds of celebratory firing being reason for not increasing quantity of arms and ammunitions; and without providing any opportunity of hearing, as directed by this Hon'ble Court in its order dated 05.04.2024 in the present proceedings."*

2. Learned counsel for the petitioner submits that the petitioner is a the proprietor of M/s Prem Lata & Sons, engaged in the business of arms trade from Adarsh Complex, under Police Station Gandhi Maidan, Patna. The petitioner is a licensee under the provisions of the Arms Act and the Rules framed thereunder, having been granted Arms Trade License No. 4 of 2004 in Form XII on 11.03.2005, permitting her to keep and sell arms and ammunitions of all bores under NP bore category. It is submitted that the said license has been periodically renewed and is presently valid.

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3. It is further submitted that while seeking renewal of the license, the petitioner had also prayed for enhancement in the quantity of arms and ammunitions permissible under her license, on the ground that the sanctioned limit was insufficient to cater to the genuine demand of licensed arms holders. The application of the petitioner was duly considered and recommended by the learned District Magistrate, Patna, who, after due enquiry and consideration, forwarded the proposal for increment to the Commissioner, Patna, who in turn also approved the same and recommended it further to the competent authority in the Home Department.

4. Learned counsel points out that despite clear recommendations of the District Magistrate as well as the Commissioner, the Additional Secretary (Home), Government of Bihar, vide Memo No. 10169 dated 28.12.2016, declined the request of the petitioner for enhancement of quantity, without assigning any cogent reasons, and on the erroneous assumption that there already existed sufficient stock of arms and ammunitions in the district. It is urged that such reasoning was wholly arbitrary and contrary to record, inasmuch as the supply from ordnance factories was available only in the minimum quota of 1000 cartridges per bore, and the petitioner, owing to the restricted

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quota, was unable to procure the required variety of cartridges, thereby seriously affecting her trade.

5. Learned counsel for the petitioner further submits that again, vide Memo No. 4848 dated 03.05.2024, the respondents rejected the claim of the petitioner for enhancement of the quota, on the wholly irrelevant ground of alleged "celebratory firing," without granting any opportunity of hearing to the petitioner, despite specific directions of this Hon'ble Court in an earlier writ proceeding. It is contended that the said reasoning is misconceived, as the petitioner, being a licensed arms dealer, can sell arms and ammunitions only to individuals possessing valid arms licenses issued by the competent authority, and hence there is no correlation between "celebratory firing" and the enhancement sought by her for commercial purposes.

It is further contended that the District Magistrate, being the licensing authority under the Act, is in the best position to gauge the local demand and supply position, as well as the law-and-order implications within his district. Once such authority has recommended the enhancement, the Additional Secretary (Home) could not have differed from the recommendation arbitrarily and without recording any cogent justification.

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6. Learned counsel for the petitioner has also drawn attention to the fact that in several other districts of the State, including smaller districts with lesser demand and population, the respondents have sanctioned licenses to the maximum limit, whereas in the case of the petitioner, despite higher demand in Patna, the enhancement has been denied. It is argued that such discriminatory treatment amounts to violation of Article 14 of the Constitution of India, as the State, being a public authority, cannot act arbitrarily or selectively favour some licensees while denying others on unfounded grounds. It is also urged that the rejection of the petitioner's claim has resulted in grave prejudice, as the petitioner, due to restricted quota, is unable to stock sufficient and varied calibers of cartridges, thereby losing business and goodwill, and suffering financial loss. Learned counsel submits that the entire process of procurement of ammunitions being lengthy and cumbersome, involving sanction of NOC under Rule 98 of the Arms Rules, 2016, issuance of transport license under Rule 97 of the said Rules, and payment of advance by the dealer, the petitioner is unable to meet market demand within time, thereby frustrating the very purpose of the trade license granted to her.

7. In support of her submissions, learned counsel for the petitioner has placed reliance on the decision reported in **2007(3)**

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PLJR 537 (M/s Rajdhani Arms vs. State of Bihar), wherein it has been held that the Additional Secretary (Home) could not have arbitrarily differed from the recommendation of the District Magistrate without recording valid reasons.

On these grounds, learned counsel for the petitioner submits that the impugned orders contained in Memo No. 10169 dated 28.12.2016 and Memo No. 4848 dated 03.05.2024 deserve to be quashed, and appropriate directions be issued to the respondents to enhance the quota of arms and ammunitions in favour of the petitioner, in line with the recommendations of the District Magistrate and the Commissioner, Patna.

8. Learned counsel for the respondents, on the other hand, has opposed the writ application and has submitted that the claim of the petitioner is thoroughly misconceived and untenable in law as well as on facts. It is submitted that trade in arms and ammunition is a highly regulated and controlled trade, governed strictly by the provisions of the Arms Act, 1959 and the Rules framed thereunder. The licensee has no vested right to seek enhancement of quota at his or her own will, and the grant of such enhancement is always subject to the overarching considerations of public order, security, and the larger public interest.

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9. The learned counsel further points out that in the case of Patna district, there exists in total 7847 valid arms licenses registered under the National Database of Arms Licenses (NDAL). Taking into account the permissible allotment of 50 cartridges per license per year, the maximum demand works out to 3,92,350 cartridges annually. It is further submitted that in January, 2017 itself, there were as many as 12 valid license-holding arms traders within Patna, who were sufficient to procure and supply cartridges to individual license-holders. Hence, there was/is no dearth of supply of ammunitions in the district as alleged.

By way of illustration, learned counsel has drawn the attention of the Court to the sale statement of the petitioner's own firm for the years 2013, 2014 and 2015, which discloses that 23,720 cartridges, 27,710 cartridges and 28,810 cartridges respectively were sold in those years. However, the sale of actual weapons by the petitioner during the same period was negligible, as only 1 rifle, 4 revolvers and 1 pistol were sold across three years. This, according to the respondents, itself demonstrates that the demand projected by the petitioner is inflated, and that the existing quota has never been exhausted.

10. Learned counsel further submits that a supplementary affidavit filed by the Home Department clearly

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records that the husband of the petitioner is himself the proprietor of another licensed firm, namely M/s City Fire Arms, Sultanganj, Patna, which holds License No. 2 of 1994. Against this license, a far higher quota has already been sanctioned—namely 60 rifles, 25 revolvers and 25 pistols, with permissible ammunition of 15,000 rifle cartridges, 5,000 revolver cartridges and 5,000 pistol cartridges. This fact, it is argued, reinforces the respondents' stand that the family of the petitioner is already well provided for under the licensing scheme, and any further enhancement would be wholly unjustified.

11. The learned counsel also relies upon the subsequent rejection order dated 03.05.2024 issued by the competent authority, which categorically recorded that enhancement cannot be permitted in view of the increasing misuse of firearms in "celebratory firing," the rise in criminal cases involving gun violence, and even instances of indiscriminate hunting of wildlife. The respondents emphasize that in recent years, owing to changes in social values and effective policing, the overall demand for arms and ammunition has in fact decreased, and therefore any claim of shortage is baseless. It is thus the stand of the State that permitting an indiscriminate increase in the permissible stock of ammunition would neither be in consonance with the objectives of the Arms

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Act, 1959, nor with the spirit of Article 19(6) of the Constitution. On the contrary, such enhancement is likely to result in greater circulation of arms, heightened risks of misuse, and an additional burden upon law enforcement authorities.

In view of the above, learned counsel for the respondents submits that the decision to restrict and deny enhancement of quota to the petitioner is a reasonable and proportionate restriction, fully justified both constitutionally and statutorily, as it subserves the larger public interest and ensures public peace and tranquility. Accordingly, it is prayed that the writ application, being devoid of merit, is fit to be dismissed.

ISSUES FOR CONSIDERATION:

1. Whether the petitioner has a legal right to seek enhancement of the quota of arms and ammunition under her dealer's license?

2. Whether the recommendations of the District Magistrate and Divisional Commissioner in favour of the petitioner are binding on the State Government?

3. Whether the petitioner has been treated unequally in comparison to other arms dealers of different districts?

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4. Whether the reasons cited by the respondents, such as public safety and misuse of firearms, are valid grounds to deny enhancement of quota?

FINDINGS:

Issue 1: Whether the petitioner has a legal right to seek enhancement of the quota of arms and ammunition under her dealer's license?

Having examined the statutory framework under the Arms Act, 1959 and the Rules made thereunder, this Court is of the considered opinion that though the power to regulate the quota of arms and ammunition vests with the competent authority, such power cannot be exercised arbitrarily or in disregard of material facts. A dealer holding a valid license under Form XII carries with it not merely the right to continue in trade but also a legitimate expectation that her business will be allowed to expand in accordance with market demand, subject to reasonable regulatory control.

In the instant case, the petitioner has placed reliance upon the repeated recommendations of the District Magistrate, Patna as well as the Divisional Commissioner, both of whom, upon due assessment of local requirement, certified the necessity of enhancement in the petitioner's quota. These recommendations

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cannot be treated as empty formalities; they form part of the statutory process of consideration and reflect an official satisfaction at the district level regarding the bona fides and necessity of the petitioner's request.

The record further indicates that despite such recommendations, the Home Department rejected the request without furnishing cogent reasons, merely citing general apprehensions such as celebratory firing and alleged sufficiency of stock in the district. Such reasons are ex facie irrelevant in the case of a licensed dealer who is authorized to sell only to genuine license holders under the strict scrutiny of law. A refusal based on extraneous considerations amounts to arbitrariness and offends the equality clause under Article 14 of the Constitution.

Accordingly, this Court holds that the petitioner, being a duly licensed arms dealer, does possess a legal right to seek enhancement of her quota, and the authorities were bound to consider the same fairly, reasonably and in accordance with the recommendations of the district-level officers. The denial of enhancement in the present case is thus unsustainable in law.

Issue 2: Whether the recommendations of the District Magistrate and Divisional Commissioner in favour of the petitioner are binding on the State Government?

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This Court has carefully considered the submissions of the parties and the materials available on record. It is not in dispute that the petitioner's application for enhancement of quota was favourably recommended first by the District Magistrate, Patna, and thereafter by the Divisional Commissioner, Patna. Both these authorities, after due enquiry, recorded their satisfaction as to the bona fide requirement of enhancement and forwarded the proposal accordingly.

It is true that the final power to grant or refuse enhancement vests with the State Government through its Home Department; however, such power is not unfettered. The recommendations of the District Magistrate and Divisional Commissioner form an integral part of the statutory consultative process. These authorities are the field-level functionaries most directly acquainted with the local law-and-order situation, actual demand of licensed holders, and the conduct of the petitioner as a licensee. Once they have applied their mind and recommended enhancement, the State Government is required to assign cogent, relevant, and rational reasons if it chooses to differ.

In the present case, the Home Department, while rejecting the petitioner's request, has not demonstrated any material to displace the findings of the District Magistrate and

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Divisional Commissioner. The reasoning of "sufficiency of stock" or "celebratory firing" does not address the specific recommendation that the petitioner's existing quota was insufficient to meet the legitimate demand of licensed arms holders in Patna. The rejection thus suffers from non-application of mind and arbitrariness.

Accordingly, this Court is of the considered view that while the recommendations of the District Magistrate and Divisional Commissioner may not be technically binding in the sense of curtailing the discretion of the State Government, they are nevertheless binding in effect to the extent that the Government cannot disregard them without recording compelling and germane reasons. In the absence of such reasons, the impugned rejection orders cannot be sustained.

Issue 3: Whether the petitioner has been treated unequally in comparison to other arms dealers of different districts?

Upon consideration of the rival submissions and materials placed on record, it emerges that the petitioner has specifically pleaded that in several other districts of the State, including smaller districts with lesser population and lower demand, arms dealers have been sanctioned a higher quota of arms

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and ammunition. This assertion has not been effectively denied by the respondents. On the contrary, the respondents have sought to justify the disparity by contending that the assessment of quota varies from district to district, depending upon the law-and-order situation and local security considerations.

This Court finds that while the State Government may certainly adopt differential standards keeping in mind local conditions, such differentiation must be founded on intelligible criteria and supported by cogent reasoning. In the instant case, the District Magistrate and the Divisional Commissioner of Patna, after assessing the demand in the capital district, themselves recommended enhancement in favour of the petitioner. The Home Department, while rejecting the request, did not record any valid reason as to why dealers in smaller districts could be allowed enhanced quotas whereas the petitioner in Patna, where demand is admittedly higher, should be restricted to a lower limit.

Such selective treatment, in the absence of any rational justification, offends the guarantee of equality under Article 14 of the Constitution. The principle of equality does not mean uniformity in all cases, but it certainly mandates that similarly situated persons cannot be treated unequally without a valid basis.

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The respondents, having failed to show any reasonable ground for the disparity, cannot sustain their action.

Accordingly, this Court holds that the petitioner has indeed been subjected to unequal and discriminatory treatment vis-à-vis other arms dealers of different districts, and the impugned orders are liable to be interfered with on this ground as well.

Issue 4: Whether the reasons cited by the respondents, such as public safety and misuse of firearms, are valid grounds to deny enhancement of quota?

It is beyond cavil that the State Government, while regulating trade in arms and ammunition, is entitled to take into account overarching considerations of public safety, law and order, and possible misuse of firearms. The doctrine of reasonable restriction under Article 19(6) of the Constitution permits the State to impose limitations on such trade in the interest of public peace and security.

However, such power cannot be exercised arbitrarily or on the basis of vague and general apprehensions. In the present case, the respondents have sought to justify the denial of enhancement to the petitioner on grounds of "celebratory firing," misuse of arms in crimes, and indiscriminate hunting. While these phenomena may exist in society, the respondents have not placed

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any material to connect such activities with the petitioner or her business operations. On the contrary, as a licensed dealer, the petitioner is legally permitted to sell only to individuals holding valid arms licenses, whose use of ammunition is already subject to strict regulation and record-keeping.

The apprehensions expressed by the Home Department are therefore too remote and generalized to constitute valid reasons for rejecting the petitioner's specific claim, particularly when both the District Magistrate and the Divisional Commissioner had recommended enhancement after due consideration of local requirements. The blanket invocation of "public safety" without demonstrating any rational nexus to the petitioner's case cannot be sustained in law, as it would reduce the statutory right to carry on licensed trade into an illusory formality.

Accordingly, this Court is of the view that while public safety and misuse of firearms may be relevant considerations in principle, in the facts of the present case the reasons cited by the respondents are not valid or sufficient grounds to deny enhancement of quota sought by the petitioner.

12. Having regard to the pleadings of the parties, the materials available on record, and the issues framed and discussed hereinabove, this Court finds that the petitioner, being a duly

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licensed arms dealer, had a legal right to seek enhancement of quota under her license, and such request was required to be considered fairly and reasonably by the competent authority. The recommendations of the District Magistrate and the Divisional Commissioner, having been made after due assessment of demand and the law-and-order situation at the district level, could not have been brushed aside by the State Government without recording cogent and germane reasons. The impugned rejection orders of the Home Department suffer from arbitrariness and non-application of mind, as they are founded only upon vague apprehensions of celebratory firing and a general claim of sufficiency of stock, without addressing the specific necessity highlighted by the field authorities.

13. Accordingly, the impugned orders contained in Memo No. 10169 dated 28.12.2016 and Memo No. 4848 dated 03.05.2024, issued by the Home Department, Government of Bihar, are quashed and set aside. The respondents are directed to forthwith enhance the quota of arms and ammunitions in favour of the petitioner in terms of the recommendations made by the District Magistrate, Patna and the Divisional Commissioner, Patna, and to issue necessary orders and authorizations to that effect

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within a period of two weeks from the date of receipt/production of a copy of this judgment.

14. The writ petition is allowed to the extent indicated above. All pending I.As, if any, will be deemed to have been disposed of. There shall be no order as to costs.

(Alok Kumar Sinha, J)

Prakash Narayan

AFR/NAFR	AFR
CAV DATE	13.08.2025
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