

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4421 of 2015

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Shadabul Haque S/o Late Capt. S.M.A. Haque resident of Haque Manhil, Bans
Kothi, Digha Ghat, P.O. & P.S.- Digha, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Patna
2. District Arms Magistrate, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Manoj Kumar Ambastha, Advocate
For the State : M/s Partha Sarthi, G.A. 11 and
Utsav Kumar, AC to G.A. 11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-09-2015

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by Annexure 1 which is a communication dated 15.9.2009 stating that his application for grant of licence for carrying DBBL gun has been rejected in view of lack of any threat perception upon him.

Learned counsel draws attention of this Court towards Annexure 1 which appears to have been signed by the Additional District Magistrate, Patna as well as the District Arms Magistrate, Patna. Petitioner has also filed a supplementary affidavit appending therewith the document which has been supplied by a competent authority under the Right to Information Act. The ordersheet has been appended which discloses that in fact recommendation was



made by the District Arms Officer, Patna for refusal of licence which has been forwarded and recommended by the Additional District Magistrate, Patna to the District Magistrate. Thereafter, it does not appear that any order has been passed by the District Magistrate himself who happens to be the Arms Magistrate under the Arms Act, 1959 (hereinafter referred to as 'the Act'). Even if it is assumed that one of the signatures available in the last page of the ordersheet belongs to the District Magistrate that would not be sufficient as he has to assign reason for refusal of licence as per the statutory provision and that decision has to be taken by him applying his own mind and not on mere recommendation by the Arms Magistrate only.. On that count itself the order appears to be bad and fit to be set aside.

That apart, this Court in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar)** and other analogous cases has already held that the lack of production of evidence regarding any threat perception does not form ground for refusal of licence. Apart from above, the petitioner has submitted that his father was a licence holder of DBBL gun and after the death the petitioner has applied for grant of licence so that the same gun be kept in the family. There is no decision on this point also.

Having considered the facts and circumstances of this

case I am of the opinion that the order impugned is not sustainable for the aforesaid reasons and, accordingly the same is quashed and set aside.

The matter is remitted back to the District Magistrate – cum – licensing authority, Patna to take decision in accordance with law and also considering the decision of this Court rendered in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases** as well as existing Family Heirloom policy. It is expected that the entire exercise would be completed within a period of three months from the date of receipt / production of a copy of this order.

(Dr. Ravi Ranjan, J)

Spd/-

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