

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22502 of 2013

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Santosh Prasad Yadav S/O Late Rameshwar Prasad Yadav Resident Of
Village- Chaukhara, P.O- Chatra, P.S- Kopa, District- Saran

.... Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Home Department,
Government Of Bihar, Patna.
2. The Divisional Commissioner, Saran At Chapra.
3. The District Magistrate, Saran At Chapra.
4. The District Arms Magistrate, Saran At Chapra.
5. The Superintendent Of Police, Saran At Chapra.
6. The Thanadhyaksh, Police- Station- Kopa, Saran

.... Respondents

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Appearance :

For the Petitioner : Mr. Madhaw Prasad Yadaw, Advocate

For the State : Mr. Kamalesh Kishore, AC to GP 2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 23-11-2015

I.A. No. 8778 of 2015:

The petitioner has preferred the present writ application for direction to the licensing authority for SBBL gun as his father was holding licence for SBBL gun but after his death, the aforesaid gun has been deposited with the Arms Dealer, namely, M/s Pratap Shastragar, Saran at Chapra and the petitioner now wants to retain such gun in his favour.

During the pendency of the writ petition, final order has been passed by the licensing authority on 08.08.2014 rejecting his claim.

The petitioner by filing the present Interlocutory Application now wants to challenge the aforesaid order dated

08.08.2014, which stands appended as Annexure A to the counter affidavit filed on behalf of the respondent no. 3.

In the facts and circumstances of the case, this Interlocutory Application is allowed and the petitioner is permitted to challenge Annexure A to the counter affidavit dated 08.08.2014 passed by the licensing authority.

C.W.J.C. No. 22502 of 2013:

A preliminary objection has been raised by learned counsel for the State that the petitioner should be relegated to the statutory appellate authority to challenge the impugned order contained in Annexure A to the counter affidavit as he is challenging the same without preferring an appeal.

However, it appears from the impugned order that the refusal of licence is on the ground that the petitioner has not been able to come up with specific evidence with regard to any threat perception upon him or his family members and, thus, referring the letter dated 31.03.2010 issued by the Ministry of Home Affairs, Government of India, as contained in Annexure B, the application for grant of arms licence has been rejected.

However, the aforesaid issue is no longer *res integra* as this Court in **Manish Kumar v. The State of Bihar and others and other analogous cases (2015(4) Patna Law Journal**

Reports 212) has already held that non-production of evidence showing threat perception is not a ground for refusal of licence under section 14 of the Arms Act, 1959 and the concerned letter has also been considered in the aforesaid decision. Since the present matter is covered by the aforesaid decision of this Court, it would be meaningless to relegate the same to the appellate authority.

Accordingly, this writ application stands allowed in terms of the decision rendered in **Manish Kumar(supra)**, the order impugned, as contained in Annexure A to the counter affidavit, is quashed and set aside and the District Magistrate-cum-Licensing Authority, Saran at Chapra, is directed to consider the matter afresh and take a decision in accordance with law within a period of six weeks from the date of receipt/production of a copy of this order also considering the Family Heirloom Policy.

(Dr. Ravi Ranjan, J)

SC/-

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