

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11723 of 1997

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Sunil Kumar son of Shri Jwala Prasad, resident of Mohalla-Gaurachani, Sasaram,
PS-Sasaram, District-Rohtas. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Rohtas at Sasaram
4. The Superintendent of Police, Rohtas at Sasaram
5. The District Arms Magistrate, Rohtas at Sasaram
6. The SDO, Rohtas at Sasaram
7. The Officer Incharge, Sasaram Town, Rohtas
8. The Secretary, to the Commissioner, Patna Division, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.N.Dhoubey, Sr. Adv.
Mr. Ashok Kumar Garg, Adv.
Mr. Dineshwar Pandey, Adv.
For the Respondent/s : Mr. Syed A. Alam, SC-3
Mr. F. Ali Ahmad, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-02-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is a practicing advocate in
Sasaram Court and at the time of filing of this application, he
applied for licence. His father was also a practicing lawyer but now
he is no more.

The petitioner applied for licence, as his father was
intending to transfer his licence revolver in his favour. The Police
report dated 5th March 1993 (Annexure-1) is in his favour,
recommended for granting the licence to him, so much so that the



Sub-Divisional Officer, Sasaram vide his order dated 6th March 1993, has also recommended for granting the licence to him. It also appears that the District Arms Magistrate, Rohtas in his order dated 28th February 1994 (Annexure-4) has also given a favourable note in his favour recording a finding that his annual earning is Rs. 20,000/- as well as he has immovable property such as house at Sasaram, Bhabua and Varanasi but the Collector by the impugned order refused to pass favourable order in his favour on the ground that threat perception upon him has not been assessed properly, accordingly vide letter dated 7/8/ 1997 rejected the application in Arms Case No. 62/97. The Divisional Commissioner agreed with view of Collector refused to grant the licence on the same ground.

This Court is of the view that Sections 13 and 14 of the Arms Act do not postulate only condition for refusal of licence on the ground that the person having no threat perception so much so, threat perception may arise at the different stages and occasions in life. Merely because in the recommendation as well as in the police verification report threat perception to his life and property has not been recorded is sole reason for refusal is not proper in view of the facts that the District Arms Magistrate has recorded that he has sufficient property at Sasaram, Bhabua and Varanasi so much so that the petitioner is

practicing advocate having no criminal antecedent. The reason assigned by the Collector and the Commissioner is not a proper exercise of discretion. After such a long lapse of time it is not proper for this Court to remand back the matter again. Liberty is given to the petitioner to file a fresh application for licence if so advised.

If such application is filed, the authority concerned will examine the case of the petitioner and pass the order in accordance with law within a period of six months from the date of filing of the same.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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