

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.296 of 2014

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Shaukat Alam, son of Late Md. Hasnain, resident of Village- Rasulpur, P.S. Fatuha,
District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Patna.
2. The District Magistrate, Patna.
3. The Commissioner, Patna Division.
4. The Sub-Divisional Magistrate, Patna City.
5. The Senior Superintendent of Police, Patna.
6. The Officer in Charge, Fatuha Police Station, District – Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bamdeo Pandey

Mr. Jitendraa Pandey

For the Respondent/s : Mr. Manoj Kumar, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 31-03-2015

Heard Mr. Bamdeo Pandey, learned counsel
appearing on behalf of the petitioner and Mr. Manoj Kumar, learned
Assisting Counsel to Government Advocate No.10 for the State.

The prayer of the petitioner for grant of licence under
the Arms Act, 1959 (hereinafter referred to as ‘the Act’) and ‘the
Rules’ framed thereunder stands rejected on grounds of ‘absence of
threat perception’ as well as ‘absence of pressing necessity’.

This is a second round of rejection by the Licensing
Authority who, in the present case, is the District Magistrate, Patna
with his earlier rejection order being set aside in appeal by the
Commissioner, Patna Division, Patna vide order passed on
16.12.2006 placed at Annexure-2 in Arms Appeal Case No.209 of



2006. However, the order on remand passed by the District Magistrate, Patna dated 21.4.2007 circulated vide memo dated 26.4.2007 which is a part of Annexure-1 stands affirmed by the appellate authority vide order passed on 26.12.2007 in Arms Appeal Case No.371 of 2007. The petitioner being aggrieved is before this Court.

Although the writ petition has been filed after an excessive delay but taking note of the circumstances that the rejection of the application of the petitioner for grant of arms licence is on unsustainable grounds, this Court is persuaded to interfere with the matter.

Section 13 of 'the Act' provides for grant of licence and creates no categories or classification as a pre-condition to filing of such application that the applicant should demonstrate a pressing necessity or that he faces imminent danger to his life. Section 13 is a legal right vested in a citizen of this country to apply for a licence without any such pre-conditions and even if a discretion is vested in the District Magistrate concerned as the Licensing Authority under section 14 of 'the Act' to refuse the same, the field is clearly described in the provision. A bare perusal of the grounds on which the licence can be refused is manifest from section 14 of 'the Act' itself and it is clear that 'lack of pressing necessity' and 'absence of threat perception' are no grounds for rejection of any such

application.

Thus where section 13 creates no such pre-condition that an applicant should establish 'pressing necessity' or 'imminent danger to his life' or 'perceived threat' before he can apply for grant of licence and in absence of any such provision in section 14 which would disentitle any applicant to a grant of licence on such grounds, that the order passed by the District Magistrate, Patna as affirmed by the appellate authority as contained in Annexure-1 to the writ petition cannot be upheld.

For the reasons aforementioned the order dated 21.4.2007 passed by the District Magistrate, Patna circulated vide Memo dated 26.4.2007 as well as the appellate order dated 26.12.2007 passed by the Commissioner, Patna Division, Patna in Arms Appeal Case No. 371 of 2007 cannot be upheld and are accordingly set aside. The matter is remitted back to the Licensing Authority i.e. the District Magistrate, Patna to consider the application of the petitioner afresh and pass orders in accordance with law within a period of three months from the date of receipt/production of a copy of this order bearing in mind the position discussed hereinabove.

The writ petition is allowed.

(Jyoti Saran, J)

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