

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22640 of 2011

Prabhat Kumar S/O Late Indrajit Singh R/O Village- Karnaul, Police Station-
Charpokhari, In The District Of Bhojpur At Arrah

.... Petitioner

Versus

1. The State Of Bihar Through Principal Secretary Department Of Home,
Government Of Bihar, Patna
2. The District Magistrate-Cum-Collector, Bhojpur At Arrah
3. Superintendent Of Police, Bhojpur At Arrah
4. Sub-Divisional Officer, Piro, Bhojpur At Arrah
5. Deputy Superintendent Of Police, Piro, Bhojpur At Arrah
6. The Officer-In-Charge, Charpokhari, Bhojpur At Arrah

.... Respondents

Appearance :

For the Petitioner : Mr. Prabhu Naryan Sharma, Advocate
For the State : Mr. Mithilesh Kumar Upadhyay, AC to GP 10

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-09-2015

I have heard parties.

This writ application was initially filed for direction to respondents to dispose of the application filed by the petitioner for grant of arms licence for N.P. Bore riffle. It has been stated that initially an Arms Licence No. 1554/82 was granted to the father of the petitioner. After the death of the father of the petitioner in the year 1998, he deposited the firearm to the dealer namely M/s Bhojpur Shastragar and applied for grant of licence. However, the same had remained pending.

The matter was taken up earlier on several occasions. It



appears from the order dated 17.8.2015 that a counter affidavit was filed on behalf of the State and assurance was given that final order would be passed by the licensing authority within a week. Thereafter, it appears that the order dated 20.8.2015 as contained in Annexure 7 to the I.A. No. 7289/2015 has been passed by the licensing authority – cum District Magistrate, Bhojpur. The aforesaid order is sought to be challenged by filing I.A. No. 7289/2015.

Learned counsel appearing for the State submits that there is a provision of appeal for challenging the aforesaid order. However, it is submitted on behalf of the petitioner that order of refusal is in teeth of the law laid down by this Court in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases** disposed of on 11.8.2015.

In view of the fact that the application of the petitioner for grant of licence had remained pending for several years and even after filing of this writ application in the year 2011, no step was taken to take a final decision and after about four years of filing of application the final order dated 20.8.2015 came to be passed and also, in view of the nature of order which has finally to be passed and is in teeth of the decision of this Court rendered in **Manish Kumar (supra)**, interlocutory application no. 7289/2015 is allowed.

The relief mentioned in paragraph 1 of aforesaid

interlocutory application as well as Annexure 7 thereof and the averments made in support of the relief would form part of the writ application

In view of the nature of the proposed order to be passed in the present case, this writ application, after its amendment in the relief portion, is being considered without waiting for a counter affidavit filed by the State defending Annexure 7, i.e., the order impugned by which application of the petitioner has been rejected after several years on the ground of lack of any evidence of any threat upon the petitioner. This Court while dealing with identical issue in **Manish Kumar (supra)** disposed of on 11.8.2015 has already held that threat perception does not mean that there should be actual overt act upon the applicant rather mere apprehension would be enough and further that lack of production of evidence regarding threat perception upon the applicant does not form a ground under Section 14 of the Arms Act, 1959 for refusal of arms license and also that the right of the petitioner to safeguard his life and property cannot be brushed aside in such a casual manner.

Accordingly, the impugned order is quashed and set aside.

However, the matter is remitted back to the licensing authority – cum - District Magistrate, Bhojpur to take a fresh decision

in accordance with law in the matter within a period of eight weeks from the date of receipt / production of a copy of this order.

Accordingly this writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

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