

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.481 of 2014

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Rajeshwar Dubey son of Late Laxman Dubey R/o Village + P.O. + P.S.- Suryapura,
Distt- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Rohtas at Sasaram

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate

For the Respondent/s : Mr. Ashok Kumar Keshari, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-05-2015

Heard Mr. Rajani Kant Singh, learned counsel appearing on behalf of the petitioner and Mr. Ratna Deep Prasad, Assisting counsel to AAG-XI for the State.

The petitioner prays for a writ in the nature of certiorari for quashing the order dated 08.8.2013 passed by the respondent no. 3 i.e. the District Magistrate, Rohtas at Sasaram in Arms Case No. 36 of 2007 whereby the application of the petitioner for grant of arms license in respect of his D.B.B.L. Gun has been rejected on grounds of absence of threat perception. A copy of such order is placed at Annexure-4 to the writ petition.

Mr. Rajani Kant Singh, learned counsel appearing on behalf of the petitioner submits that an identical order was earlier passed by



the District Magistrate in Arms Case No. 36 of 2007 rejecting the application of the petitioner for grant of arms license and which order was questioned by the petitioner in Arms Appeal No. 38 of 2008. He submits that the Arms Appeal was allowed by the Divisional Commissioner, Patna Division, Patna on 25.6.2011 remitting the matter to the licensing authority for fresh consideration. He submits that on remand the District Magistrate, Rohtas at Sasaram has reiterated his view placing reliance on circular of Union of India on the issue of arms policy.

A counter affidavit has been filed reiterating the position.

I have heard learned counsel for the parties and I have perused the materials on record. The issue raised in the present writ petition was also a subject matter of a batch of writ petition in CWJC No. 921 of 2013 and analogous cases where the District Magistrate, Rohtas at Sasaram had taken an identical stand to reject the arms application of the writ petitioners.

This Court taking note of the statutory provisions underlying Section 13 and 14 of the Arms Act as well as the stipulations provided in the policy decision of the Government of India in its circular dated 31.3.2010 has held that the legal right vested in a citizen of India for maintaining an application for arms license cannot be curtailed under any policy decision unless the applicant is found unsuitable on any of

the grounds found under Section 14 of the Act. It was also noticed that even the circular of the Government of India did not put any such restriction. The issue thus raised in this writ petition stands squarely covered by the judgment and order passed by this Court in CWJC No. 921 of 2013 and for the reasons assigned therein the prayer made by the petitioner is allowed. The order impugned passed by the District Magistrate, Rohtas at Sasaram cannot be upheld and is set aside. The matter is remitted back to the District Magistrate, Rohtas at Sasaram for passing appropriate consequential orders within eight weeks from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

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