

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15700 of 2013**

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Narendra Kumar S/O Late Ramashray Singh R/O Village:- Senuar, P.S.:- Sheo Sagar, District:- Rohtas

.... .... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Rohtas
3. The Superintendent of Police, Rohtas
4. Sub-Divisional Officer, Sasaram, Rohtas
5. Deputy Superintendent of Police, Sasaram, Rohtas
6. Officer-In-Charge, Sheo Sagar Thana, Sheo Sagar, Rohtas

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Vishal Saurabh, Advocate

For the State : Mr. Kamlesh Prasad, AC to SC II

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 05-10-2015**

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by Annexure 1 dated 8.5.2013 by which his application for grant of licence has been rejected by the District Magistrate, Rohtas. It is submitted that earlier also petitioner's licence was rejected against which the petitioner preferred Appeal No. 92 of 2010. The appeal was allowed and the matter was remitted back to the licensing authority for fresh consideration after holding that he had totally misconstrued his jurisdiction by saying that the licence could only be granted if there has been threat to life and property. It was question did he mean that people would have to be killed in order to qualify for getting arms license? It is contended

that, ignoring that the aforesaid observation of the appellate authority, again the application has been rejected on the self same ground.

Though this application has been filed in the year 2013, no counter affidavit has been filed as yet on behalf of the respondents. However, in view of the nature of the proposed order to be passed in this case, the same is being considered without waiting further for filing counter affidavit.

It appears from perusal of the impugned order that the rejection is on the ground that the petitioner has not been able to produce any specific documentary evidence regarding threat upon his life and property.

I am afraid that it cannot be a ground for refusal of arms licence under Section 14 of the Arms Act, 1959 (hereinafter referred to be as "the Act"). Though the licensing authority has quoted a passage from the Arms Policy of the Central Government stating that holding of sophisticated arms by the conflicting parties directly contributes towards lethality of violent acts, I am again afraid that this observation has no relevance in the present case inasmuch as there is no allegation that the petitioner is holding any sophisticated arms being one of the conflicting parties. In fact, the appellate authority has recommended for grant of licence as the petitioner's father was also holding DBBL gun and after his death the petitioner

has applied for the same.

This Court in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar)** and other analogous matters has already taken view that neither Section 13 nor Section 14 of the Act discloses that the applicant, at the time of filing of application for grant of arms licence, should be ready with documentary evidence regarding threat perception. Threat perception does not mean that the applicant should have faced actual threat or overt act. The appellate authority has rightly stated that threat to life and property does he mean that, in order to qualify for getting arms licence, people have to be killed or at least be injured in any incidence or occurrence.

Accordingly, the impugned order is quashed and set aside. The matter is remitted back to the District Magistrate-cum-Licensing Authority concerned to pass a fresh order in accordance with law within a period of four months from the date of receipt/production of a copy of this order.

However, it is made clear that no other ground except that mentioned above has been taken for refusal of licence, therefore, if after passing of the impugned order, the petitioner has not subsequently incurred some sort of disqualification for grant of licence either under Section 13 or Section 14 of the Act then in view of recommendation of police authority it would be a fit case

for grant licence.

Accordingly, this writ application is allowed.

**(Dr. Ravi Ranjan, J)**

Spd/-

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