

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16883 of 2015

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Smt. Abha Devi, Wife of Sri Ram Ayodhya Sharma, Resident of Village-
Babhanpura, P.O.- Mobarakpur, P.S.- Phulwarisharif, District- Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Home, Government of Bihar, Patna.
4. The Divisional Commissioner, Patna Division, Patna.
5. The District Magistrate, Patna.
6. The Superintendent of Police, Patna.
7. The Sub-Divisional Police Officer, Phulwarisharif, Patna.
8. The Arms Magistrate, Patna.
9. The Officer Incharge, P.S.- Phulwarisharif, Patna.

.... Respondents

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Appearance :

For the Petitioner : M/s. Prasant Kashyap,
Sanjeev Kumar Mishra, Advocates

For the State : Ms. Ratna Kumari, A.C. to S.C. 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-11-2015

Heard learned counsel for the petitioner and the State.

Petitioner's application for grant of arms licence for N.P.

Bore revolver/pistol was rejected by the District Magistrate, Patna on earlier occasion vide Annexure 2 against which an appeal was preferred and the matter was remitted back by the Divisional Commissioner, Patna vide order dated 25.02.2014/22.04.2014 passed in Arms Appeal No.495/2013 for fresh consideration. It is contended that identical view has again been taken by the District Magistrate and again the application for grant of arms licence has been rejected.



From perusal of the impugned order dated 01.11.2014 as contained in Annexure 5, it appears that the claim of the petitioner has been rejected on three grounds. First ground is that the Superintendent of Police has not made any recommendation for fresh licence rather he has merely forwarded the recommendation of the officer-in-charge of the concerned police station as well as the SDPO, Phulwarisharif. Secondly, there is lack of evidence with regard to any threat perception upon the petitioner and lastly that the petitioner's husband is already holding an arms licence for N.P. Bore revolver/pistol.

In my view, all the three grounds for the rejection are not valid. Sub-Section (2) of Section 13 of the Arms Act, 1959 lays down that on the receipt of application, the licensing authority shall call for the report of the officer-in-charge of the nearest police station who shall send his report within the prescribed time. It is apparent that officer-in-charge has sent its report along with his recommendation and the SDPO has also recommended, thus, even if Superintendent of Police has merely forwarded the report of the officer-in-charge and the SDPO, decision could well have been taken. Even if it is assumed that specific recommendation of the Superintendent of Police was required then another report could have been sought from him requesting him to send specific report whether he recommends for grant of licence or not. So far threat perception is concerned this Court

has already held in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases** that lack of production of any evidence by the applicant showing threat perception upon him/her is not a ground under Section 14 of the aforesaid Act for rejection of grant of arms licence. Lastly, since the petitioner herself is a Mukhiya and there is recommendation of the officer-in-charge that, due to political reason, she has to roam around to entire constituency and, thus, arms licence is required for her safety, the refusal on the ground that her husband is already having a licence is not tenable.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure 5 is quashed and set aside. The matter is remitted back to the Licensing Authority to take a fresh decision in accordance with law also taking into account the aforesaid decision rendered by this court and other judicial pronouncements on the issues concerned within two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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