

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13378 of 2015

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Dileep Kumar Tiwari @ Deeleep Kumar Tiwari, son of Sri Rajnit Tiwari, Resident of Village- Jaldahan, P.S. Ramgarh, District Kaimur

.... Petitioner

Versus

1. The State of Bihar through the Collector cum District Magistrate, Kaimur (Bhabhua)
2. The Divisional Commissioner, Patna Division, Patna
3. The Superintendent of Police, Kaimur (Bhabhua)
4. The Sub-Divisional Police Officer, Bhabhua (Kaimur)
5. The Officer in Charge, P.S. Ramgarh, District- Kaimur (Bhabhua)

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Kumar Mishra, Advocate

For the State : Mr. Ranjay Kumar Singh, A.C. to S.C. 16

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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 the order dated 20.03.2015 passed by the District Magistrate, who happens to be the Licensing Authority, in Arms Case No.268/2013-14 by which his application for grant of licence for DBBL gun has been rejected on the ground that there is no danger to his life and property and he apparently wants to retain a firearm only for show off.

It is contended that this issue is in teeth of a decision of this Court rendered in C.W.J.C. No. 18535 of 2011 (**Manish Kumar Vrs. State of Bihar**) and other analogous cases. It has been held that



threat perception does not mean that for entitling himself for grant of arms licence, a persons has to suffer overt act. Mere apprehension would be enough. It is further held that lack of production of any specific evidence by the applicant or the police regarding threat perception upon the life and property of the applicant does not form a ground of refusal under Section 14 of the Arms Act, 1959. A copy of the report of the officer-in-charge forwarded by the Superintendent of Police has been appended as Annexure 5 in which it has been stated that that officer-in-charge of the concerned police station has found that there is no record in Ramgarh Police Station disclosing any threat perception upon him.

I am unable to understand as to how such enquiry is being done by the police. It has been observed time without number by this Court that threat perception does not mean that a person should have subjected to specific overt act and for that a police case should have been lodged for qualifying him for the purpose of grant of licence.

Accordingly, in view of the decision of this Court rendered in **Manish Kumar (Supra)**, the impugned order is not sustainable in law and, accordingly, the same is quashed and set aside. The matter is remitted back to the Licensing Authority for taking a fresh decision in accordance with law also considering the various

judicial pronouncements in matters of grant or refusal of licence including the aforesaid decision of this Court. The Superintendent of Police is also directed to get a proper enquiry done and submit the report to the Licensing Authority in this regard so that the same could be considered by him before passing the final order and for that purpose various judicial pronouncements of this Court should be kept in mind. It is expected that the entire exercise would be completed within a period of four months from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

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