

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14628 of 2013

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Rameshwar Nath Mishra S/O Late Krishna Dayal Mishra R/O Village - Aruhi, P.S.
Kargahar, District - Rohtas

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Vishal Saurabh, Advocate
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: 28-09-2015

Heard learned counsel for the petitioner and the State.

Petitioner's application for grant of arms licence for SBBL gun was rejected earlier on 01.08.2006 by the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram on the ground that there was no evidence regarding threat perception upon the petitioner. Petitioner preferred appeal no.411/2007 before the Commissioner, Patna which was allowed holding that there was

lack of application of mind by the licensing authority and the matter was remitted back for fresh consideration.

Again a decision has been taken vide Annexure 1 against the petitioner and the rejection is again on the ground that there is no evidence regarding any threat perception upon the petitioner which 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 is interesting to note that even though the appellate authority has referred the decision of this Court dated 3.9.2007 passed in C.W.J.C. No.13898 of 2006 that the rejection on the ground of lack of threat perception shows total non-application of mind as the same does not mean that people have to be killed or have to face specific overt act for getting arms licence. It was further held that arms licence is for protection and is a statutory right. It is not dependent on any actual incident having occurred. However, the licensing authority, ignoring the aforesaid decision, has again passed the impugned order which is identical to its earlier decision. It is deprecated. Though a passage from a letter of the Home Ministry, Government of India has been referred saying that proliferation of arms and ammunition in the country disrupt the social order and development, however, that cannot be a ground for refusal of licence to the petitioner. What licensing



authority has to see is whether the petitioner satisfies all the conditions for grant of licence or not. This Court also in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases** has held that lack of any documentary evidence regarding specific threat perception cannot form a ground for refusal of licence under Sections 13 or 14 of the Arms Act, 1959 (hereinafter referred to be as “the Act”).

Accordingly, this writ application stands allowed. The impugned order, as contained in Annexure 1, is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision in accordance with law. However, it is made clear that, since no ground has been specified in the impugned order dated 08.05.2013 (Annexure 1) for refusal of licence other than the aforesaid lack of evidence regarding threat perception, thus, if there is no event subsequent to the date of the impugned order which disqualifies the petitioner either under Section 13 or 14 of the Act from getting the arms licence, the petitioner would be entitled for grant of licence as the same cannot be refused again on the selfsame ground. However, if the authority comes to the conclusion that there was some involvement of the petitioner in some criminal cases which could not be looked into during the earlier proceeding then that can also be considered by it.

It is expected that the whole exercise would be completed within two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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