

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22569 of 2013

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Manjusha Devi W/O Sri Jai Prakash Yadav R/O Mohalla- Mohanpur, Pump House,
Vidyapati Lodge, P.S. Shastri Nagar, District And Town- Patna

.... Petitioner

Versus

1. The State Of Bihar Through Home Secretary, Govt. Of Bihar
2. District Magistrate, Patna
3. Commissioner, Patna Division, Patna
4. Additional District Magistrate (Arms), Patna
5. District Arms Magistrate, Patna

.... Respondents

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Appearance :

For the Petitioner : M/s MD. SHAKIR AHMAD,
Gajendra Kumar Singh and
Pakaj Kumar Singh, Advocates

For the State : Mr. Anshuman Singh, GP 24
Mr. Sriram Krishna, AC to GP 24

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 15-09-2015

Heard learned counsel for the petitioner and the State.

The petitioner has filed an application in the year 2008 itself before the District Magistrate, Patna for grant of arms licence for N.P, bore rifle, however, when the matter was not being disposed of, the petitioner filed C.W.J.C. No. 391 of 2011 which was disposed of vide Annexure 1 dated 26.11.2011 directing the District Magistrate, Patna to dispose of the application of the petitioner within a period of six months. Thereafter, the petitioner's application was rejected on 18.01.2012 (Annexure 2) on the ground that there is lack of evidence regarding threat perception upon the petitioner as she has not stated anything about threat from the extremist or noted criminal, etc. The



petitioner preferred appeal before the Commissioner, Patna Division, which was allowed on 21.08.2012 vide Annexure 3 and the matter was remitted back to the licensing authority for fresh consideration, however, again the District Magistrate, Patna vide impugned order dated 23.02.2013 as contained in Annexure 8 has refused the arms licence of the petitioner.

It is intriguing as to why the District Magistrate, Patna had stated that his order was being passed in Appeal Case No. 92/2012, which was already disposed of by the Commissioner, Patna Division, vide Annexure 3.

Be that as it may, it appears again from the impugned order that the licence of the petitioner has again been refused on the ground that there is no threat perception upon the petitioner. A reliance was placed upon the letter written by the Home Ministry, Government of India.

In my considered view, the District Magistrate is again and again taking identical stand in the matter and refusing the licence to the petitioner who happens to be a lady. The aforesaid issue is no longer *res integra* as this Court, in the judgment dated 11.08.2015 rendered in C.W.J.C. No. 18535 of 2011 (Manish Kumar v. The State of Bihar and others) and other analogous matters, has already held that lack of evidence regarding threat perception cannot form a ground

for refusal of arms licence under section 14 of the Arms Act(hereinafter to be referred to as “the Act”). In the aforesaid cases, the letter written by the Ministry of Home, Government of India, has also been considered.

Accordingly, this writ application stands allowed in terms of the judgment dated 11.08.2015 rendered in C.W.J.C. No. 18535 of 2011 (Manish Kumar v. The State of Bihar and others) and other analogous matters. The impugned order dated 23.02.2013 passed by the licensing authority as contained in Annexure 8 is quashed and set aside and the matter is remitted back to the District Magistrate-cum-licensing authority, Patna, i.e., respondent no. 2, for taking a fresh decision in the same within a period of eight weeks from the date of receipt/production of a copy of this order.

It is noticed that no other ground for refusal is there either in the earlier order dated 18.01.2012(Annexure 2) or the impugned order dated 23.02.2013(Annexure 8) except lack of evidence regarding threat perception upon the petitioner, therefore, refusal cannot be made on the selfsame ground again. Since there is no other impediment in granting licence to the petitioner which would be evident from the aforesaid order, the petitioner would be fit to get the concerned arms licence unless there is any subsequent development after passing of the impugned order dated 23.02.2013 (Annexure 8)

incurring disqualification upon the petitioner for grant of same.

(Dr. Ravi Ranjan, J)

SC/-

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