

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10281 of 2013

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Anand Kumar Tiwary, Son Of Sri Ram Tiwary, Resident of Village- Tekniwas,
P.O.- Kachnar, P.S.- Revilganj, District- Saran At Chapra

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Saran at Chapra
2. The Superintendent of Police, Saran at Chapra
3. The Arms Magistrate, Saran and Chapra.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Basant Kumar Singh, Advocate

For the Respondent/s : Mr. Anshuman, SC-14

Mr. Kuber Pathak, AC to SC-14.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 22-09-2015

I have heard learned counsel for the petitioner and the
State.

The petitioner seeks direction to the respondent
authorities to grant him licence for SBBL Gun.

It is contended on behalf of the petitioner that his father,
who is Ex-Army man, is living in his native village after his
retirement, however, in view of his old age, he is now unable to take
care of firearm. Thus, the petitioner has applied for grant of licence
along with an application of his father stating therein his inability to
retain the arms and requesting to issue licence to his son (petitioner).
However, even though the police has recommended the petitioner's
case for grant of licence, no decision has been taken as yet by the

licensing authority.

It is stated on instruction on behalf of the State that in view of the fact that the earlier report did not disclose as to how there was any threat perception upon the petitioner, a fresh report has been sought in this regard and after receipt of the same, the decision would be taken.

In my considered view, the stand of the State authorities is grossly misconceived. The police has already recommended the case of the petitioner for grant of licence for his personal safety and it is not stated that the petitioner does not have a good record. That apart, the petitioner's father has now become old and he wants his licence to be transferred in his name.

Apart from the above, this Court has already held that threat perception does not mean that there should be actual overt act or actual occurrence upon the applicant or his family so that he would be entitled for arms licence. Mere apprehension would be enough.

Further, it has also been held in a decision of this Court dated 11.08.2015 rendered in CWJC No.18535 of 2011(Manish Kumar Vs. The State of Bihar and Ors.) and other analogous cases that lack of cogent evidence regarding threat perception upon the applicant is not a ground for refusal of licence under Section 14 of the Arms Act, 1959.

Accordingly, this writ application is being disposed of with a direction to the District Magistrate-cum-licensing authority, Saran at Chapra to take a decision in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.

However, it is made clear that since elections have been notified, he will only take a decision in the matter of grant of licence for gun and even if the order is passed in favour of the petitioner, the licence would be given to the petitioner only after results of election are declared.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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