

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13858 of 2015

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Abhimanyu Prasad Singh S/o Ambika Pd. Singh Resident of Village- Saho Karma, P.S. Kashma (Then Rafiganj) dist- Aurangabad,(Bihar)

.... Petitioner

Versus

1. The State of Bihar
2. The Home Secretary, Govt. of Bihar, Patna.
3. The Deputy Inspector General, Magadh Range, Gaya.
4. The District Magistrate, Aurangabad(Bihar)
5. The District Arms ,Magistrate, Aurangabad(Bihar)
6. The Superintendent of Police, Aurangabad(Bihar)
7. The Sub-Divisional Magistrate, Aurangabad(Bihar)
8. The Deputy Superintendent of Police, Aurangabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Birendra Kumar Singh, Advocate
For the State : Mr. Neelam Prasad, A.C. to G.P.25

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

4 23-11-2015

I.A. No.9020 of 2015

This writ application was filed for a direction to the respondent no.4 for grant of arms license to the petitioner. However, during the pendency of the writ petition, it appears that vide order dated 18.4.2015 contained in Annexure-12 to the Interlocutory Application as well as Annexure-B to the counter affidavit filed on behalf of the respondent nos.4 and 5, arms license to the petitioner has been refused. Now the petitioner wants to assail the aforesaid order.

In view of the fact that the impugned order has been passed during the pendency of this writ application, this

application is allowed and the petitioner is permitted to challenge Annexure-12 which would form part of the writ petition.

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Learned counsel for the petitioner submits that an application for grant of arms license was filed by the petitioner admittedly in the year 1986 and the same remained pending. However, suddenly on 18.4.2015 the impugned order has been filed rejecting the petitioner's claim. It is contended that though it stands stated in the order that petitioner remained absent during the course of hearing before the licensing authority, in fact the notice was never served upon the petitioner.

I find force in the submission made on behalf of the petitioner. Even the Annexure-A which is copy of the notice issued upon the petitioner shows that, for whatsoever reason, notice was never served upon him and, thereafter, the impugned order was passed on 18.4.2015 after about 29 years without granting reasonable opportunity to the petitioner. It is also apparent from Annexure-2, which is recommendation by the Officer-in-charge concerned, that he had opined that the petitioner's village was affected by extremist activity, however, even then the licensing authority has come to the conclusion that there is no threat upon the petitioner's license. The aforesaid view

of the licensing authorities is also contrary to the view of this Court in **Manish Kumar and others vrs. The State of Bihar and others [2015(4) PLJR 212]**. This Court has held in the aforesaid case that the threat perception does not mean that there should be actual threat or overt act upon the applicant rather apprehension of the same would be enough and also that lack of production of specific evidence regarding threat perception does not form a ground of refusal under Section 14 of the Arms Act, 1959.

Accordingly, this application succeeds, the order impugned is quashed and set aside and the matter is remitted back to the licensing authority for taking a fresh decision in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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