

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3095 of 2015

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Satya Brat Pandey @ Pankaj Pandey @ P. Satyavrat Pankaj, son of Nalini Vilochan Pandey, Resident of Village - Sondihra, P.S.- Bhabua, District – Kaimur. At present R/o Bhabua Ward No. 6, New Ward No. 11, P.S.- Bhabua, District - Kaimur.

.... Petitioner

Versus

1. The State of Bihar through its Home Secretary, Old Secretariat, Patna.
2. The Commissioner, Patna Division, Patna.
3. The Collector, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur, Bhabua.
5. The S.D.P.O. Bhabua, Kaimur.
6. The Inspector of Police, Bhabua, Kaimur.
7. In-charge of Police, Bhabua, P.S.- Bhabua, Kaimur.

.... Respondents

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Appearance :

For the Petitioner/s : Dr. Amarendra Kumar, Advocate
: Mr. Rajesh Kumar, Advocate
: Mr. Vinod Kumar Seth, Advocate
For the Respondent/s : Mr. Mritunjay Kumar Jha, A.C. to SC-3.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 14-09-2015

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

The petitioner seeks quashing of the order dated 6.08.2013 passed by the licensing authority-cum-District Magistrate, Kaimur (Bhabua) by which his application for grant of licence for revolver/pistol has been rejected.

It is contended on behalf of the petitioner that on earlier occasion also, the request of the petitioner for grant of licence was refused, upon which, he had preferred an appeal before the



Commissioner, Patna Division, who, vide his order dated 2.08.2008, had set aside the order of the Collector and remanded back the matter for fresh decision, upon which, Annexure-8 has been passed again refusing the arms licence on the ground that petitioner's father has already having a licence for double barrel gun and from the appreciation of the record, it did not appear that there was any apprehension to the life and the property of the petitioner.

In my considered opinion, the order passed by the licensing authority is liable to be quashed for the reason that grant of licence to another family member does not form a ground of refusal of licence under Section 14 of the Arms Act, 1959 (hereinafter referred to as "the Act").

The petitioner has placed reliance upon a decision of this Court in the case of *Arun Kumar @ Arun Kumar Barnwal Vs. The State of Bihar and Ors. Reported in 2000 (4) PLJR 552* in which it has been laid down that even if a person carries two firearms, the third cannot be refused in lieu of that as he would be entitled to carry three firearms in terms of Section 3 (2) of the Arms Act. That apart, this case is also covered by a decision of this Court dated 11.08.2015 rendered in CWJC No.18535 of 2011 and other analogous matters wherein it has been held that lack of any evidence regarding threat perception does not form a ground for refusal of licence under the

Act. It has further been held that threat perception upon a person does not mean that there should be actual threat or he should have suffered actual overt act rather apprehension of threat would be enough.

In above view of the matter, this writ application succeeds. The order impugned is quashed and set aside. The matter is remitted back to the licensing authority to take a fresh decision in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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