

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6374 of 2015

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Badshah Singh, son of Chela Late Nalanda Giri, resident of village- Laheri, P.S.-
Kochas, District- Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Rohtas at Sasaram
4. The Superintendent of Police, Rohtas at Sasaram
5. Sub Divisional Officer, Sasaram, Rohtas
6. The Inspector of Police, Sasaram (M), District- Rohtas
7. The Officer Incharge, Police Station Kochas, District- Rohtas

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Choubey, Advocate

For the Respondent/s : Mr. Anil Kumar, AC to SC-10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 22-09-2015

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 3 which is an order dated 19.09.2012 passed by the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram by which the petitioner's application for grant of arms licence has been rejected as well as the order dated 22.07.2014/13.08.2014 passed by the Commissioner, Patna Division, Patna in Arms Appeal No. 578/2012 contained in Annexure 4, by which he has upheld the order passed by the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram and rejected the appeal filed by the petitioner.

A short question has been raised during the course of hearing by the petitioner that the order impugned passed by the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram is based only on the ground that the petitioner has not been able to substantiate by leading evidence that there is threat perception upon him.

From perusal of the order impugned passed by the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram, it appears that at one place he has stated that the petitioner is not in inimical terms with anybody and there is no apprehension of any altercation with any person but, at the same time, he has also come to the conclusion that in view of maintaining public peace the petitioner's application for grant of arms licence is fit to be rejected. However, from perusal of the entire order, it appears that the main thrust is upon lack of evidence with respect to any threat perception upon him.

A counter affidavit has been filed on behalf of the Superintendent of Police, Rohtas at Sasaram in which it has been stated that he has already made necessary recommendation and no record is pending for taking any action.

In my considered view, this issue is no longer *res integra*, inasmuch as, this Court has already held in the judgment dated 11.08.2015 rendered by this Court in C.W.J.C. No. 18535 of 2011 (Manish Kumar v. The State of Bihar and others) and other analogous

matters that lack of evidence regarding threat perception cannot form a ground for refusal of arms licence under section 14 of the Arms Act and as such, the orders impugned contained in Annexure- 3 and 4 are not sustainable in law.

Accordingly, this writ application stands allowed in terms of the judgment thereof. The impugned orders passed by the District Magistrate-cum-Licensing Authority, Rohtas and the Commissioner, Patna Division, Patna, as contained in Annexure- 3 and 4 are quashed and set aside and the matter is remitted back to the District Magistrate-cum-Licensing Authority, Rohtas at Sasaram, i.e., respondent no. 3, for taking a fresh decision considering the aforesaid judgment rendered in C.W.J.C. No. 18535 of 2011 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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