

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23344 of 2011

Prakash Raushan @ Bullet Srivastava Son Of Sri Paras Prasad Resident Of Village
- Churaman Patti, P.O. Kunjlahi P.S. Nautan, District West Champaran

.... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate West Champaran, Bettiah
3. The District Arms Magistrate West Champaran, Bettiah
4. The Sub-Divisional Officer Bettiah Sada, West Champaran
5. The Superintendent Of Police West Champaran, Bettiah
6. The Sub-Divisional Police Officer Bettiah Sada, West Champaran
7. The Officer-In-Charge Nautan P.S. , West Champaran

.... Respondents

Appearance :

For the Petitioner : Mr. Umesh Chandra Verma, Advocate

For the State : Mr. Himanshu Kumar Akela, AC to GA1

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-08-2015

I.A. No. 6676 of 2015

Heard learned counsel for the petitioner and the State.

It appears that during the pendency of this writ application the petitioner's prayer for grant of licence for D.B.B.L. Gun has been rejected vide Annexure 1 to the interlocutory application dated 14.8.2012 which also stands appended as Annexure A to the counter affidavit.

By filing I.A. No. 6676/2015 the petitioner seeks leave to challenge the aforesaid order.

In view of the fact that the order as contained in Annexure 1

to the interlocutory application has been passed during the pendency of this writ application, same is allowed.

In the facts and circumstances of the case, the petitioner is permitted to assail the order dated 14.8.2012 as contained in Annexure 1 to the interlocutory application passed by the District Magistrate, West Champaran, Bettiah.

Now I proceed to consider C.W.J.C. No. 23344/2011 on merit.

Heard learned counsel for the petitioner and the State.

This writ application is being finally considered and disposed of in view of nature of order which is going to be passed and also in view of the order dated 11.08.2015 passed in C.W.J.C. No. 18535 of 2011 and its analogous matters.

It appears from the order contained in Annexure 1 to the interlocutory application which is under challenge that the application for grant of licence of D.B.B.L. gun has been refused chiefly on two grounds. First ground is the verification report is only with respect to his permanent address of village Churamanpatti, P.O. Kunjalhi, P.S. Nautan, district West Champaran in which it has been stated that, for the last two years, the petitioner is residing at Bettia in the area of Durganagar, New Bus Stand, Bettia under Town Police Station and, therefore, recommendation is also for getting

verification done from that Police Station. Secondly, the report of the police does not state anything regarding danger upon the life or property of the petitioner or as to whether he has received any threat.

In my view the order of the licensing authority is not sustainable in the eye of law. The moment the concerned In-charge of Nautan Police Station had recommended for getting verification done from the aforesaid police station in view of the fact that the petitioner was found residing there for last two years, that was required to be done. However, the main ground which has been taken for refusal of licence appears to be that the police report does not speak any thing about any danger of life or property or any threat perception on him. This part of order is also not sustainable in view of the decision rendered in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases** holding that the threat perception does not mean that there should be actual overt act upon the applicant. I have already held in the aforesaid case that lack of any evidence, documentary or otherwise, regarding threat perception is not one of the statutory grounds set forth in section 14 of the Arms Act for rejection of application for grant of licence. If the licensing authority was not satisfied by the report then it could have sought another report.

Accordingly, this writ application stands allowed and order impugned as contained in Annexure 1 to the interlocutory application is set aside.

The matter is remitted back to the concerned licensing authority for fresh consideration of the matter after seeking a report from Town Police Station, Bettiah and, thereafter, final order would be required to be passed on its own merit and in accordance with law also taking in account the order passed by this Court in the aforesaid cases.

(Dr. Ravi Ranjan, J)

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