

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10185 of 2013

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Rajesh Kumar S/O Late Rajendra Prasad R/O Village- Maheshpur, Police Station-
Muffasil, District- Munger

.... Petitioner

Versus

1. The State Of Bihar Through Chief Secretary Government Of Bihar, Patna
2. The District Magistrate, Munger
3. The Superintendent Of Police, Munger
4. The S.D.O., Sadar, Munger
5. The Arms Magistrate, Munger

.... Respondents

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Appearance :

For the Petitioner : Mr. Shivendra Kumar Sinha, Advocate

For the State : Mr. Manoj Kumar, AC to SC 28

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 14-09-2015

Heard learned counsel for the petitioner and the State.

The order impugned dated 18.03.2013 passed by the District Magistrate, Munger, i.e., respondent no. 2, contained in Annexure 4, is under challenge, by which he has rejected the petitioner's application for grant of arms licence.

The petitioner has filed his application for grant of arms licence on 10.09.2011 and when nothing was being done by the licensing authority, he had approached this Court by filing C.W.J.C. No. 18597 of 2012 which was disposed of on 04.10.2012 vide Annexure 2 directing the licensing authority to consider the application of the petitioner within three months from the date of receipt/production of a copy of that order and



when even then no order was passed, the petitioner filed M.J.C. No. 784 of 2013 on 05.02.2013 During the pendency of the contempt petition the order dated 18.03.2013 appears to have been passed by the licensing authority. The ground taken in the order appears to be flimsy as it has clearly been stated that there has been no complaint against the petitioner in any manner even then the Officer-in-charge and the Superintendent of Police did not recommend for grant of licence on the ground that the petitioner is short-tempered though there is no reason assigned as to how the authority concerned came to such conclusion.

Learned counsel for the petitioner submits that the order impugned was passed in haste with *mala fide* intention of the authorities as they have tried to victimize the petitioner for filing the aforesaid contempt application.

In my considered opinion, though the finding to the aforesaid effect would not be proper to record in this matter without granting opportunity to the concerned police officer or the licensing authority but factually it is correct, as admitted by learned counsel for the State also, that everything has been done after filing of the contempt case. In my considered opinion, without any rhyme or reason or complaint on



anybody's behalf it was not proper for the police authority to come up with such a report that the petitioner appears to be short-tempered person. It further appears from the impugned order that the petitioner was interviewed by the District Magistrate also but he has also come to conclusion that the petitioner was a short-tempered. In my view, the aforesaid report, which was *de hors* any material, was not binding upon the licensing authority.

That apart, it has further been stated by learned counsel for the State that the petitioner could not produce any evidence that there is any threat perception upon him.

The aforesaid issue has also been set at rest, as this Court, in a decision rendered on 11.08.2015 in C.W.J.C. No. 18535 of 2011(Manish Kumar v. The State of Bihar and others) and other analogous matters, has already held that lack of production of specific evidence regarding threat perception cannot form a ground for refusal of licence.

As a result, this writ application succeeds and the order 18.03.2013 passed by the District Magistrate, Munger, i.e., respondent no. 2, contained in Annexure 4 is quashed and set aside. The matter is remitted back to the licensing authority (respondent no. 2) to take a fresh decision on its own merit and

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)

SC/-

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