

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3128 of 2015

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Nagendra Sharma. Son of Sri Kapildeo Sharma. Resident of village - Gonwan,
P.S.- Paras Bigha, District - Jehanabad.

.... Petitioner

Versus

1. The Superintendent of Police, Jehanabad.
2. The State of Bihar through Principal Secretary, Home Secretariat, Patna.
3. The Divisional Commissioner, Gaya.
4. The District Magistrate, Jehanabad.
5. The District Arms Magistrate, Jehanabad.
6. The Superintendent of Police, Jehanabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dr. Alok Kumar Sinha, Advocate
For the State : Dr. Anil Kr Uapdhyay, SC 20 and
Naresh Prasad, Advocate

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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.

Petitioner is aggrieved by the order dated 31.1.2015 as contained in Annexure 11 by which his application for grant of licence for N.P. bore pistol / revolver has been rejected by the licensing authority cum District Magistrate, Jehanabad.

It is submitted that on earlier occasion also he had rejected his request on 18.4.2012 vide Annexure 6 which was challenged by the petitioner by filing appeal before the Commissioner, Gaya Division, who had allowed the appeal and after setting aside the order passed by the District Magistrate, had remitted back the



matter for taking a fresh decision. Thereafter, the impugned order has been passed. It is contended that though the petitioner has grave and imminent threat perception as has been assessed by the Superintendent of Police, Jehanabad, but it is stated in the order that inquiry has not been made by him. It is further stated that even the Superintendent of Police (V), Special Brach, Patna has also assessed that there is grave and imminent threat upon the petitioner but the licensing authority has refused to grant licence.

It appears from the report that the petitioner is running a brick-kiln and his Munsif has already been killed by the miscreant and a sanha was also lodged as petitioner was being threatened and demanded extortion money.

A counter affidavit has been filed on behalf of the respondent nos. 3 and 4 taking a ground that there is no specific recommendation considering regarding any threat perception upon the petitioner.

Counter affidavit has also been filed on behalf of the Superintendent of Police, Jehanabad who has categorically stated in paragraph no. 5 that inquiry was done by the Officer Incharge Parasbigha Police Station who had recommended for grant of licence. The Inspector of Police, Sadar Circle and S.D.P.O., Jehanabad has also confirmed the aforesaid recommendation and,



upon the basis of that recommendation, the Superintendent of Police, Jehanabad has recommended for grant of arms licence. It is further stated in the counter affidavit that on a direction of the District Magistrate in the Arms Act Case No. 007DM/2013 a high level committee was constituted and, after inquiry, a report was submitted before the Superintendent of Police, Jehanabad, thereafter, he had submitted a report before the District Magistrate in which it has been stated that there is specific threat upon the petitioner.

From perusal of Annexure 6 and Annexure 11, i.e., the impugned order passed by the District Magistrate, it appears that refusal is on the self same ground of lack of any evidence regarding threat perception. No other ground for refusal has been recorded. It appears from the order dated 31.1.2015 that the licensing authority, even though his earlier order was set aside by the appellate authority, had again rejected the application on selfsame ground.

This Court in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar)** and other analogous cases has already decided that lack of production of evidence regarding threat perception is not one of the grounds for refusal of licence under Section 14 of the Arms Act, 1959(hereinafter referred to as

“the Act”). Accordingly, the order dated 31.1.2015 contained in Annexure 11 is held to be in teeth of the aforesaid decision of this Court and, as such, is quashed and set aside. Since no other ground for refusal has been taken by the licensing authority and in view of the affidavit filed on behalf of the Superintendent of Police, Jehanabad that there is threat perception upon the petitioner which is reflected from the report of Special Branch also, in my considered view it is a fit case in which the licensing authority shall grant licence to the petitioner if nothing has happened subsequent to the passing of the impugned order disentitling him under section 13 of the Act.

Accordingly, this writ application is allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

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