

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16383 of 2012

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Md. Zahid Hussain son of Md. Shahabuddin Resident Of Village-
Bahwalpur(Bhalua), P.O.- Agni, P.S.- Belaganj, Distt.- Gaya

.... Petitioner

Versus

1. The State of Bihar through the Commissioner, Magadh Division, Gaya
2. Commissioner, Magadh Division
3. District Magistrate, Gaya

.... Respondents

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Appearance :

For the Petitioner : M/s. Prabhat Ranjan Singh and
Prabeen Kumar Singh, Advocates

For the State : Mr. Shashi Shekhar Prasad Sinha, A.C. to G.A.13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-08-2015

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

Petitioner is aggrieved by the order dated 16.05.2008
passed by the District Magistrate, Gaya by which this application for
grant of license of N.P. Bore rifle has been rejected as well as the
Annexure-7 dated 28.07.2011 passed by the Commissioner in Arms
Appeal No.1 of 2001 by which he has dismissed the appeal on
technical ground that certified copy of the order impugned was not
filed along with the appeal.

From perusal of the order of the District Magistrate, it
appears that he has rejected the application of the petitioner on three
grounds. First ground is that petitioner has not been able to disclose a



sufficient and satisfactory reason for grant of license, secondly the Officer-in-charge, the Police Inspector and the Superintendent of Police, though have recommended for grant of license but have not recorded any reason why they are recommending and thirdly, on the ground that it is not clear in the report of the police that there is any threat perception upon the petitioner.

In my considered opinion, in fact the licensing authority has not been able to disclose any proper ground for refusal of grant of license. The petitioner has clearly indicated in Clause-12 of Annexure-1 that he requires the gun for his safety. So far the report of the police is concerned that also discloses that he is having a good character and he is a peace loving person and wants arms for the safety of his person and property. If more information was required from the end of the police administration then the licensing authority could have sought it from them but, on the ground that the police has not given sufficient reason for recommendation, his application has been rejected without any fault of the petitioner. I also do not find any reason for stating in the order that the Superintendent of Police has not given any positive opinion. It appears from Annexure-4 that the Officer-in-charge has clearly stated that he recommends for grant of license of N.P. Bore rifle and the Superintendent of Police has stated that he does not have any objection if such license is granted to the petitioner. Therefore, in my

considered opinion, that ground also appears to be a flimsy. So far the threat perception is concerned, in **Manish Kumar and others Vrs. The State of Bihar and others [C.W.J.C. No.18535 of 2011 and other analogous cases]**, this Court has held that threat perception does not mean that the applicant should have faced the actual threat or overt act and that apart Section 14 of the Arms Act does not disclose that lack of any positive evidence regarding threat perception can also form a ground for refusal of license. The appellate authority could also have directed the petitioner to file certified copy of the order of the District Magistrate but it has dismissed the appeal on technical ground.

Thus, in my considered opinion, the orders impugned cannot be sustained in law and, accordingly, both of them are quashed and set aside. The matter is remitted back to the District Magistrate, Gaya to pass a fresh order in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

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

(Dr. Ravi Ranjan, J)

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