

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16445 of 2012

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Dharmendra Kumar S/O Rajballabh Roy Resident Of Village Betoura, P.S. Beaur,
District Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Patna Range, Patna.
3. The District Magistrate-cum-Collector, Patna.
4. The District Arms Magistrate, Patna.
5. The Superintendent of Police, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Amaresh Kumar Sinha, Advocate
For the State : M/s. Rajiv Roy, G.P.5 and
D.K. Singh, A.C. to G.P.5

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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 28.04.2012 by
which his application for grant of license for N.P. Bore rifle has been
rejected by the District Magistrate-cum-Collector, Patna.

This is the third time when the petitioner has approached
this Court. On the first occasion, he had filed C.W.J.C. No.7636 of
2010 which was disposed of vide order dated 13.10.2011 directing the
District Magistrate-cum-Collector, Patna to consider and dispose of
the matter for grant of license to the petitioner in accordance with law
expeditiously in view of the fact that the impugned order was already



set aside by the appellate authority and the matter was remanded for reconsideration. When the matter was not being decided then the petitioner filed M.J.C. No.849 of 2012. During the pendency of the aforesaid Misc. Jurisdiction Case, the Annexure-5 rejecting the application of the petitioner was passed. The learned Single Judge by disposing of the aforesaid case had opined that since the order has already been passed the petitioner may take remedial course by preferring an appropriate application. Hence, this application.

From the order impugned, it appears that the rejection is on the ground that the police authority has merely forwarded the matter and it does not disclose that there has been any actual threat by any overt act upon the petitioner by any miscreants, extremist or terrorists etc.. Secondly, the father of the petitioner is already holding a license for N.P. Bore rifle, therefore, he is not required to be given separate license. The licensing authority has also stated that the petitioner could not controvert the aforesaid police report. The order also refers to the letter issued by the Ministry of Home Affairs, Central Government dated 31st March, 2010.

This Court in its order dated 11.08.2015 passed in C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous matters has already held that threat perception can never mean that there should be actual overt act upon such person.



Apprehension in that respect would be enough. It has also dealt with the aforesaid letter dated 31st March, 2010 circulated by the Home Affairs, Central Government and has held that lack of evidence regarding any threat perception cannot form a ground for refusal of license as the same does not stand enumerated in Section 14 of the Arms Act. That apart, the petitioner has also appended several documents showing that his uncle was killed in the year 1994 by the miscreants and, as such, there is threat upon his entire family.

Learned counsel appearing for the State submits that there is statutory appeal available to the petitioner against the aforesaid order. However, in my considered opinion, since this case was filed in the year 2012 itself and even after remand of the matter by the appellate authority on the earlier occasion, again order of the aforesaid nature has been passed by the licensing authority which is in teeth of the law laid down in **Manish Kumar and others (supra)**, I do not deem it proper to relegate the petitioner to the appellate authority at this stage.

Accordingly, this writ application succeeds and the order impugned contained in Annexure-5 is quashed and set aside. However, the matter is remitted back to the licensing authority to pass a fresh order in accordance with law considering all the aspects which are required to be considered for the purpose of granting license

including the aforesaid decision of this Court within a period of eight weeks from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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