

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20938 of 2012

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Gupteshwar Nath Pandey S/O Devbansh Pandey R/O Village + P.O.:- Manipur,
P.S.:- Nokha, District :- Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Rohtas
3. The Superintendent of Police, Sasaram, Rohtas
4. Sub-Divisional Officer, Sasaram, Rohtas
5. Deputy Superintendent of Police, Sasaram, Rohtas
6. Officer-In-Charge, Nokha Thana, Nokha, Rohtas

.... Respondents

with

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Civil Writ Jurisdiction Case No. 22659 of 2012

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Vijay Kumar Son of Sri Bhagwan Singh Resident of Village - Dharupur, P.O. -
Jabra, P.S. - Nokha, District – Rohtas

.... Petitioner

Versus

1. The State Of Bihar through the Chief Secretary, Bihar, Patna
2. The Commissioner, Patna Division, Patna, Bihar
3. The District Magistrate, Rohtas at Sasaram

.... Respondents

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Appearance :

(In CWJC No. 20938 of 2012)

For the Petitioner : Mr. Vishal Saurabh, Advocate
For the State : Mr. Prabhat Kumar, A.C. to G.A. 2

(In CWJC No. 22659 of 2012)

For the Petitioner : Mr. Sudama Singh,
Mr. Rajani Kant Singh,
Mr. Surendra Kumar Mishra, Advocates
For the State : Mr. Ratnakar Ambastha, A.C. to G.P. 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-08-2015

In view of the common question being involved in both
the cases they have been considered together and are being disposed

of by a common order.

In both the cases identical orders have been passed by the licensing authority refusing arms licence. In C.W.J.C. No.20938 of 2012, petitioner had made an application for grant of licence for N.P. Bore rifle whereas in C.W.J.C.22659 of 2012, petitioner had made a request for grant of licence for DBBL gun. It has been stated on behalf of the petitioner that his grandfather was holding a licence of DBBL gun since 1958. He died in the year 1995 itself and since then the DBBL gun stands deposited before the arms dealer, v.i.z, Saluja Shastralya. It appears from the impugned orders appended as Annexure 1 in C.W.J.C. No.20938 of 2012 and Annexure 8 in C.W.J.C. No.22659 of 2012 that the refusal is on the ground of lack of actual threat perception and also in view of the provision contained in Section 14(b) (ii) of the Arms Act, 1959 (hereinafter referred to be as “the Act”). It has been stated in the order that the petitioners have not been able to satisfy the licensing authority regarding threat perception as they have not been able to produce any clear evidence regarding such threat.

In my considered opinion, both the impugned orders are in teeth of the decision dated 11.08.2015 of this Court rendered in C.W.J.C. No. 18535 of 2011 and other analogous matters. This Court has already held that threat perception is not one of the grounds for



refusal as disclosed in Section 14 of the Act. It has also been held that threat perception does not mean that there should be actual threat on life or any overt act upon the petitioner so that he would be entitled for the arms licence as even apprehension of that would be enough. So far the letter dated 31.03.2012 of the Home Ministry, Government of India is concerned, as has been quoted, it gives guideline for considering such person for grant of arms licence who may face or perceive grave and imminent threat to their lives but that does not meant that in the absence of any evidence regarding actual imminent danger or threat, no person should be granted licence. This aspect has been considered in detail in the aforesaid decision of this Court. So far the refusal in view of the provision contained in Section 14 (1)(b) (ii) of the Act is concerned, there is no whisper in the impugned order that the petitioners' conduct has been suspicious or they have been involved in any criminal or untoward activity which may threaten peace of the society and as such refusal can also not be done under the aforesaid provisions by the licensing authority unless there is sufficient reason to show that petitioners conduct is disturbing the peace or safety of public.

Accordingly, the impugned orders of both the writ applications are quashed and set aside. The matter is remitted back to the District Magistrate, Rohtas at Sasaram for fresh consideration in

accordance with law also considering the present order within eight weeks form the date of receipt/production of a copy of this order.

Accordingly, both the writ petitions are allowed.

(Dr. Ravi Ranjan, J)

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