

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22571 of 2013

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Surendra Kumar Son Of Late Jitendra Prasad Singh Resident Of Village
Manjhaul, Panchmahala Tola, P.S. Cheria Bariyapur, District- Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Home
Department, Government Of Bihar, Patna
2. The Divisional Commissioner, Munger Division
3. The District Magistrate, Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.V.R.P.Singh,Advocate.
Mr. Mrityunjay Kumar, Advocate.

For the Respondent/s : Mr. Gyan Prakash Ojha,G.P.,22.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 13-10-2015 Heard learned counsel for the petitioner and the

State.

The petitioner is aggrieved by order dated
23.01.2012 passed by the District Magistrate, Licensing Authority,
Begusarai, in Arms Licence Case No.03/2012 (Arms) of 2012 by
which he has rejected the application of the petitioner for grant of
Arms Licence as also the order dated 27.04.2013 passed by
respondent no.2 (The Divisional Commissioner), dismissed his
appeal.

It appears from perusal of the record that the District
Magistrate, Begusarai by his order dated 23.01.2012, passed in
Arms Licence Case No.03/2012 (Arms) of 2012, rejected the

request of the petitioner for grant of Arms Licence on the ground that there is no threat perception to the petitioner and that a licence cannot be claimed as a matter of right and observed that the aforesaid report indicates that there is no threat perception upon the petitioner.

A copy of the aforesaid report has been appended as Annexure-2. Though the Sub-Divisional Police Officer, Manjhaul submitted a report stating that the petitioner has retired from service who is of more than 60 years old and it is not reported that any miscreant has given any threat to the petitioner and no case in this respect is pending, however, there is also report of Nagar Police Station wherein it has been stated that the petitioner has some land dispute and litigation with certain persons and, as such, he has filed application for grant of licence for safety of a person or property. The Dy.S.P. has not only forwarded the petitioner's case but has also recommended for grant of licence. It definitely means that such report has been accepted by him as sufficient material showing threat perception. It is not understandable that how and why not licence can be granted on the ground of lack of specific evidence regarding threat perception.

That apart, it has also been specifically stated that licence is given only on the basis of threat perception which is in

the teeth of decision of this Court rendered in C.W.J.C. No.18535/11(Manish Kumar vs. State of Bihar and other analogous cases dated 11.08.2015 holding that, for obtaining arms licence, the applicant need not suffer actual assault or any other overt act. Even the apprehension is enough for establishing that there is a threat upon him/her.

It has further been held that lack of production of evidence indicating presence of the actual threat can not form a ground for refusal of arms licence as it is neither required under Section 13 of the Act that at the time of making application for grant of licence the applicant should produce specific evidence in support of that, nor does the provision under Section 14 disclose that the aforesaid reason form a ground for refusal.

That being the situation, I do not have any hesitation in holding that the order impugned is not at all sustainable in law. Accordingly, the orders impugned as contained in Annexures- 4 and 6 are quashed and set aside and the matter is remitted back to the licensing authority to take a fresh decision in accordance with law within a period of three months from the date of receipt/production of a copy of this order. While doing that he will consider various judicial pronouncement in this regard including the aforesaid decision and also the Family Heirloom Policy of the

competent authority.



(Dr. Ravi Ranjan, J)