

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.354 of 2015

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1. Vinay Shankar Pathak son of Late Janardan Pathak resident of village -
Saisar, P.S. Dinara, District – Rohtas Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Rohtas
3. The Superintendent of Police, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vindhya Keshri Kumar, Sr. Adv.
For the Respondent/s : Mr. Sudhanshu Shekhar, A.C. to G.P.31.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 13-02-2015 Heard Mr. Vindhya Keshri Kumar learned Senior counsel
for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the order dated 3.8.2014 passed by the District Magistrate in Case No. 66 of 2006 whereby the application of the petitioner for grant of arms licence has been rejected after 13 years of its filing, on grounds of absence of threat perception. A copy of such order is placed at Annexure-4.

Considering that this issue stands concluded by a number of judgments of this court, this Court does not deem it necessary to await a filing of counter affidavit on the issue and the matter is being disposed of on the basis of the pleadings on record and law settled on the issue.

Facts of the case in brief is that the petitioner applied for arms licence on 13.12.2001 and whereafter an enquiry was made by the Superintendent of Police, Rohtas as back as on 16.8.2002



and whereafter he submitted his report. The recommendation of the Superintendent of Police in his letter dated 5.11.2005 written in this context is in favour of the petitioner but thereafter the matter remained pending and the District Magistrate by the impugned order present at Annexure-4 even while noticing that the application for arms licence had been filed by the petitioner for self protection, has rejected the prayer on the sole ground that there is no reference in his application regarding any threat perception.

I have heard learned counsel for the parties and I have perused the records.

Section 13 of the Arms Act provides for grant of licence and creates no such precondition which requires an applicant to establish any threat perception. Section 13 vests legal right in an applicant to apply for a licence and even when discretion is vested in the licensing authority for rejection thereof but it has to be within the parameters of Section 14 of the Act and there should be a subjective satisfaction on this ground.

Section 14 of the Act in no manner vests any jurisdiction in the Licensing Authority to reject an application for arms licence on grounds of absence of threat perception. Surprisingly, despite clear stipulation in the Act and there being a series of adjudication by this Court on this aspect and despite the recommendation by

the policing authorities, the District Magistrate has rejected the application on such ground which does not find mention in the statutory provision. The law on this issue stood settled as back as in 2007 in the case of **Amrendra Kumar Singh Vs. State of Bihar** reported in **2007(4) BBCJ 244** and continues to govern the field.

In the circumstances set forth, the order impugned dated 3.8.2014 passed by the District Magistrate, Rohtas at Sasaram in Case No. 66 of 2006 cannot be upheld and is accordingly set aside.

The matter is remitted to the District Magistrate, Rohtas at Sasaram to pass appropriate orders on the application of the petitioner in the back drop of the recommendations expeditiously and preferably within three months from the date of receipt/production of a copy of this order bearing in mind the observations made in this order as well as the pronouncement of this Court in the case of **Amrendra Kumar Singh** (supra).

The writ petition is allowed.

(Jyoti Saran, J)

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