

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1764 of 2015

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Jitendra Kumar Upadhyay @ Jitendra Upadhyay, son of Shri Sant Upadhyay, @
Sant Pd. Upadhyay, resident of village- Taruhan, P.S. Kudra, District- Kaimur
.... Petitioner

Versus

1. The State of Bihar through the Collector-cum-District Magistrate, Kaimur (Bhabhua)
2. The Divisional Commissioner, Patna Division, Patna
3. The Superintendent of Police, Kaimur (Bhabhua)
4. The Sub-Divisional Police Officer, Bhabhua (Kaimur)
5. The Officer in charge, P.S. Kudra, District- Kaimur (Bhabhua)

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Kumar Mishra, Advocate
For the State : Mr. Shashi Shakher Pd. Sinha, A.C. to G.A. 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-08-2015

This application has been filed for quashing of the order dated 12.12.2012 passed in Arms Licence Case No.38/2012-13 and the appellate order dated 22.07.2014/13.08.2014 passed in Arms Appeal No.55/2013 by which petitioner's application for grant of licence of DDBL gun has been rejected on the ground that no cogent evidence could be brought by the petitioner regarding any overt act so that it can be perceived that there is a threat upon his life or property. There are decisions of this Court holding that for assessment of threat perception it is not necessary that the applicant should suffer real overt act rather mere apprehension of that would be sufficient. That apart, this Court in C.W.J.C. No.18535 of 2011 and other analogous

matters has held that lack of evidence to the satisfaction of the licensing authority regarding threat perception does not form a ground for refusal of licence under the Arms Act, 1959 and, as such, the orders concerned appear to be erroneous and accordingly, both the impugned orders are quashed and set aside. The matter is remitted back to the licensing authority to take a fresh decision in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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