

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15333 of 2013

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Md. Mahtab Alam Son Of Md. Wasi Resident Of Ashok Raj Path, Bihar
Sao Lane, P.S. Pirbahore, District - Patna

.... Petitioner

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna
2. The District Magistrate, Patna
3. The Arms Magistrate, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Singh, Advocate

For the State : Mr. Harendra Pd. SinghSandeep Kumar, GA 8
Mr. Rajesh Ranjan, AC to GP 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

4 06-10-2015

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 28.06.2013 passed by the District Magistrate-cum-Licensing Authority, Patna by which he has refused to grant licence to the petitioner for N.P. bore rifle.

Learned counsel for the petitioner submits that the petitioner is engaged in construction and establishment of mobile phone tower and, as such, he needs a licence for N.P. bore rifle for the safety of his person and property.

An application for grant of arms licence was filed by the petitioner in the year 2008 but that remained pending for a long time, therefore, he approached this Court by filing C.W.J.C. No. 22212 of 2012 which was disposed of, vide



Annexure 1 dated 05.12.2015, directing the District Magistrate, Patna to take a final decision preferably within three months. Thereafter, the order of this Court could not be complied within the stipulated time, however, on 26.06.2013 final order was passed rejecting the application of the petitioner.

Learned counsel for the petitioner raises sole question that the refusal is on the ground that the petitioner has not been able to produce specific evidence regarding any threat upon his person or property. It has further been stated in the impugned order that the application for grant of licence was also rejected on earlier occasion, therefore, it is not required to be amended.

However, at the time of hearing, learned counsel for the State submits on instruction that the aforesaid statement is a *bona fide* mistake committed by the licensing authority as while several applications were being disposed of by mistake the fact of some other case was reproduced in the case of the petitioner.

Learned counsel for the State raises a question that the petitioner has approached this Court without availing the remedy of statutory appeal provided under section 18 of the Arms Act, 1959, thus, he should be relegated to the appellate authority.

However, in view of the question having been raised

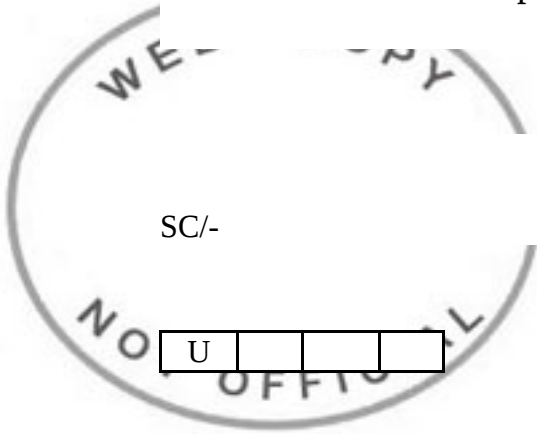


by the petitioner, which is no longer *res integra*, as the same stands decided in **C.W.J.C. No. 18535 of 2011 (Manish Kumar v. State of Bihar and others)** and other analogous cases, vide order dated 11.08.2015, it would be meaningless to relegate the petitioner to the appellate authority. In the aforesaid case, this Court has held that threat perception does not mean that the applicant, for entitling him to be granted arms licence, should have suffered an actual overt act rather mere apprehension is enough. It has further been held that lack of production of specific evidence regarding threat perception on the applicant is neither a pre-requisite for filing an application for grant of arms licence nor is it a ground for refusal of such application.

Accordingly, this writ application succeeds, the order impugned dated 28.06.2013 is quashed and set aside and the matter is remitted back to the District Magistrate-cum-Licensing Authority, Patna for taking a fresh decision in accordance with law and while doing so he should also take into account the various judicial pronouncements including the aforesaid decision rendered in **Manish Kumar(supra)**.

It is expected that the entire exercise would be completed by the District Magistrate-cum-Licensing Authority,

Patna, within a period of four months from the date of receipt/production of a copy of this order.



(Dr. Ravi Ranjan, J)