

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5745 of 2015

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Dhananjay Kumar (Advocate) son of Sri Ram Pravesh Pandey, resident of village,
Post office and Police Station- Amba, District- Aurangabad (Bihar).

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Home (Police) Department,
Government of Bihar, Patna.
2. The Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The District Arms Magistrate, Aurangabad.
5. The Superintendent of Police, Aurangabad.
6. The Sub-Divisional Magistrate, Aurangabad.
7. The Station House Officer, Amba and Post Office- Amba, District- Aurangabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Arun Kumar Singh, Advocate
For the State : Mr. Amaresh Kumar Sinha, A.C. to G.A. 9

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 21-09-2015

Heard learned counsel for the petitioner and the State.

Petitioner seeks direction for quashing the order dated
14.08.2014 passed in Arms Appeal No.01/2014 by respondent no.3
refusing arms licence to the petitioner for pistol/revolver on the
ground that he was already holding licence of D.B.B.L. gun and there
is no further threat perception upon him. He has also stated that had
there been any threat upon him of any person or any extremist
organization then he must have lodged Sanha or first information
report which was not done by him.



It is contended on behalf of the petitioner that the licensing authority has completely overlooked the report of the Superintendent of Police, Aurangabad dated 03.07.2014 as contained in Annexure 6 which clearly states that there is imminent threat upon the petitioner admittedly from anti-social miscreants and extremists etc.

When this Court in earlier writ application filed by the petitioner, the final order of which has been appended as Annexure 9, has already considered the decision of this Court in **Parsuram Pandey Vs. the State of Bihar & Ors. [2010 (3) PLJR 375]** holding that the fact that the applicant was already possessing an arms licence cannot debar him from making application for grant of second firearms in view of the provision contained in Section 3(2) of the Arms Act, 1959 (hereinafter referred to be as “the Act”) and considering that judicial pronouncement and also the impugned order having been passed being non-speaking one, the same was quashed and the matter was remitted back, it is intriguing as to how could the licensing authority have once again taken such ground for refusal specially when there was specific threat upon him as per the report of the Superintendent of Police?

Accordingly, this writ application stands allowed. The impugned order as contained in Annexure 1 is quashed and set aside.

The matter is again remitted back to the licensing authority to take a decision in accordance with law and while doing so, he will consider the provision contained in Section 3(2) of the Act along with the decision of this Court contained in Annexure 9 and further the decision rendered in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases** holding that lack of any evidence regarding threat perception cannot from a ground for refusal of licence. It is expected that the entire exercise should be completed within three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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