

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10419 of 2015

=====

Jitendra Kumar Pandey S/o Ravindra Nath Pandey, resident of village- Pandeypatti,
P.S.- Buxar Mufassil, District- Buxar

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Buxar
2. The Divisional Commissioner, Patna
3. The Superintendent of Police, Buxar
4. The Sub-Divisional Police Officer, Sadar, Buxar
5. The Officer-in-Charge, Buxar Mufassil P.S., District- Buxar

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Ashwini Kumar Rai, Advocate
For the State : Mr. Himanshu Kumar Akela, A.C. to G.A. 1

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-09-2015

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order passed by the Licensing Authority-cum-District Magistrate, Buxar, as contained in Annexure 3, by which, after remand of the matter from the court of the Commissioner, again a decision has been taken refusing arms licence to the petitioner on the ground that he has not been able to prove that there is any threat upon him. It appears from Annexure 1, which is the earlier order, that refusal was on the same ground. The appellate authority had remanded the matter for fresh consideration on the ground that the order suffers from the vice of non-application of mind by the licensing authority. Again an order of similar nature



has been passed taking the help of the letter issued by the Home Ministry, Government of India dated 31.03.2010 that unless there is specific threat perception upon a person, a person cannot be granted licence. A copy of the order has already been appended with the counter affidavit. The letter talks about a decision having been taken by the competent authority which appears to be addressed to the Secretary of the Home Department of all the States by the Joint Secretary of the Home Ministry. However, this Court in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar) and other analogous cases**, while allowing the writ petition vide judgment dated 11.08.2015, has already held that neither Section 13 of the Arms Act, 1959 (hereinafter referred to be as “the Act”), which is a provision empowering the licensing authority to grant licence, nor the provisions contained in Section 14 of the Act whereunder the grounds for refusal of licence have been provided by the legislature, disclose that lack of production of evidence on part of the petitioner may form a ground for refusal of arms licence. Threat perception does not mean that the applicant should suffer actual or specific overt act rather apprehension thereof would be enough. Thus, the authorities cannot brush aside the applications for grant of arms licence required for the safety of life and property in this manner. In fact, the aforesaid letter dated 31.03.2010 also stands considered in the decision rendered in

the aforesaid case.

Accordingly, in my opinion, the order passed by the licensing authority cannot be sustained in law and the same is quashed and set aside. The matter is remitted back to the licensing authority for fresh consideration in accordance with law. However, while doing so, he would be obliged to consider the aforesaid decision of this Court. If there is any ambiguity in the report sent by the police official then he may seek fresh report also. It is made clear that no ground has been specified in the impugned order for refusal of licence other than the one discussed above, therefore, petitioner would be entitled for grant of licence unless he has incurred some disqualification after passing of the impugned order. If it is found that petitioner was involved in any criminal case which could not be considered on the earlier occasion by the District Magistrate then it would be open for him to consider that issue also. It is expected that the whole exercise would be completed within two months from the date of receipt/production of a copy of this order.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

U			
---	--	--	--