

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7973 of 2015

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Sunil Kumar Ojha, son of Sri Jagdish Ojha, resident of Village-Diliyan, P.O.-
Khairan, P.S.- Indrapuri, District- Rohtas.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The District Magistrate, Rohtas.
4. The Additional District Magistrate, Arms, Rohtas, Sasaram.
5. The Superintendent of Police, Rohtas, Dehri, Onsone.
6. The Sub-Divisional Officer, Dehri Onsone, Rohtas.
7. The Sub-Divisional Police Officer, Dehri, Rohtas.
8. The Circle Officer, Dehri Circle, Dehri, Rohtas.
9. The Officer-in-Charge, Indrapuri Police Station, Indrapuri, Dehri Onsone.

.... Respondents

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Appearance :

For the Petitioner : M/s. Ashutosh Ranjan Pandey,
. Prabhat Ranjan Singh,
Archana Sinha, Advocates

For the State : Mr. Rajiv Kumar, A.C. to G.A. 5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 24-11-2015

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 24.11.2012
(Annexure 6) passed by the District Magistrate-cum-licensing
authority, Rohtas by which petitioner's application for grant of arms
licence for DBBL gun has been rejected.

It appears that the ground of rejection is that the petitioner
has not been able to satisfy by leading cogent evidence before the
licensing authority regarding any threat perception upon him.



It is contended on behalf of the petitioner that he has filed application in view of the fact that his father who is holding a licence of DBBL gun has become very old and he wants to transfer it in his name. It is contended that the same would be apparent from the Annexure 1 in which the police officer concerned has also made entry to that effect. However, without considering the Family Heirloom Policy, there has been refusal upon the aforesaid ground.

A counter affidavit has been filed on behalf of the State taking a ground that the petitioner has approached this Court after three years of passing of the order. However, in view of the fact that it is apparent from the order that the same suffers from the serious error as the rejection is on the ground that the petitioner was not able to produce any evidence regarding threat perception upon him, I find it a fit case in which this Court should intervene under Article 226 of the Constitution of India inasmuch as the issue is no longer *res integra* as the same stands considered and decided by this Court in **Manish Kumar Vrs. State of Bihar and other analogous cases [2015(4) PLJR 212]** holding that the same does not form one of the criteria for refusal of the licence under Section 14 of the Arms Act, 1959.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure 6 is quashed and set aside. The matter is remitted back to the Licensing Authority for fresh

consideration in accordance with law and, while doing that, it would also consider the Family Heirloom Policy. The whole exercise should be completed within a period of two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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