

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8969 of 2012

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Binod Sharma @ Vinod Sharma Son Of Nand keshwar Dasaundhi, Resident Of
Village Endua, P.O. & P.S. Nokha, District Rohtas (Sasaram) Bihar

.... Petitioner

Versus

1. The State Of Bihar through Chief Secretary, Government of Bihar
2. The Commissioner, Patna Commissioner, Patna
3. The District Magistrate –Cum-Collector, Rohtas (Sasaram), Bihar

.... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Pathak, Advocate

For the State : Mr. Ratnakar Ambastha, A.C. to G.P. 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-08-2015

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by order dated 21.07.2008

(Annexure 2) by which his application for grant of licence for D.B.B.L. Gun has been rejected on the ground that the petitioner has not been able to produce any cogent evidence that there is any danger to his life or property. Petitioner's application was rejected earlier on 05.09.2006 and, thereafter, the petitioner preferred appeal which was allowed and the matter was remitted back to the District Magistrate for fresh consideration by the appellate authority. Thereafter, the present impugned order has been passed, as contained in Annexure 2. It is contended that petitioner's father is having licence of D.B.B.L. Gun. He wants to surrender the licence and transfer the gun in favour of the petitioner for which he has applied. It is contended that the petitioner resides in the District of Rohtas which is extremist affected

area. However, his application has been dismissed on the ground of non-availability of any cogent evidence indicating any threat perception. In my considered opinion, this case is covered by a decision of this Court dated 11.08.2015 rendered in C.W.J.C. No.18535 of 2011 and other analogous matters. While assessing threat perception it does not mean that the petitioner should suffer actual threat upon his life or property or there should be an overt act upon him. Even the apprehension of threat would also be enough. That apart, it has already been held in the aforesaid case that absence of cogent evidence regarding threat perception cannot form a ground for the refusal to grant arms licence under Section 14 of the Arms Act, 1959.

Accordingly, this writ application succeeds. The matter is remitted back to the licensing authority for fresh consideration and for passing a reasoned order with respect to the application of the petitioner for grant of arms licence. It should also consider the fact that the petitioner's father is also having licence and now he wants to surrender it and transfer the gun in favour of his son, i.e., the petitioner.

Sanjay-II/-

(Dr. Ravi Ranjan, J)

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