

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13987 of 2013

=====

Sanjay Choubey, S/O – late Sriram Choubey, aged about 44 years, resident
of village and post Babhani, P.S. Kargahar, Dist - Rohtas

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Rohtas
2. The District Magistrate, Rohtas

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Bijay Shankar Choubey, Advocate

For the State : Mr. Upendra Pratap Sinha, AC to SC 25

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-09-2015

Heard learned counsel for the petitioner and the State.

It is submitted that the petitioner has applied for grant of
licence of DBBL gun in view of the fact that his father was granted
licence for that purpose and was possessing a DBBL gun and, in
view of the old age, his father wanted to transfer the DBBL gun in
favour of the petitioner. However, the application was rejected vide
order dated 19.8.2006 passed by the District Magistrate – cum –
licensing authority, Rohtas on the ground that the applicant could
not produce any cogent evidence regarding any threat upon life or



property. The petitioner filed Arms Appeal No. 61/2007 challenging the aforesaid order which was allowed on 27.5.2011 vide Annexure 5 considering the application on the aforesaid ground by setting aside the order dated 19.08.2006. Matter was remitted back to the licensing authority for taking fresh decision in view of the fact that the petitioner's father was very old and he wanted to transfer the gun in favour of the petitioner which was necessary for protecting the life and property for not only the petitioner but the entire family. However, again a decision has been taken vide impugned order dated 3.9.2012 on the self same ground that the petitioner has not been able to satisfy the licensing authority that there is any threat upon the life and property by producing any documentary evidence.

It is submitted on behalf of the petitioner that in the meantime his father has died also in the year 2010 and the gun has been deposited within Saluja Shastralya which is an Arms and Ammunition Dealers. Even then the licence has been refused in contradiction to the Family Heirloom Policy.

In my considered view, this case is covered by a decision of this Court rendered in **C.W.J.C. No. 18535 of 2011 (Manish Kumar Vrs. State of Bihar)** and other analogous cases wherein it has been held that threat perception does not mean that the applicant should face actual threat or overt act as mere

apprehension of that would be enough. It has further been held that lack of any evidence regarding specific threat perception is not a ground for refusal under Section 14 of the Arms Act, 1959. So far the letter of the Secretary, Deptt. of Home is concerned that merely states that the persons who face immediate threat of their lives may be granted such arms licence.

Accordingly, this writ application succeeds and the order contained in Annexure 1 is quashed and set aside.

Matter is remitted back to the District Magistrate – cum – Licensing Authority, Patna for fresh consideration of the matter. However, it is made clear that, if there is no development subsequent to the passing of the impugned order incurring disqualification upon the petitioner from getting the arms licence either under Section 13 or Section 14 of the Arms Act, then the petitioner would be entitled for grant of licence concerned under the Family Heirloom Policy. This positive direction has been given only in view of the fact that, even after the quashing of the earlier order by the appellate authority, same view has again been taken by the licensing authority

(Dr. Ravi Ranjan, J)

Spd/-

U			
---	--	--	--