

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16794 of 2013

=====

Md. Zeyauddin, Son Of Late Halimuddin, Resident of Village - Hamzapur, P.S.
Amas, District – Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Homes, Govt. of Bihar, Patna
2. The Divisional Commissioner, Magadh Division, Gaya
3. The District Magistrate, Gaya
4. The Sub-Divisional Officer, Sherghati, District - Gaya
5. The Superintendent of Police, Gaya
6. The Inspector of Police, Imamganj, District - Gaya
7. The Officer Incharge, Amas Police Station District - Gaya
8. The District Arms Magistrate, Gaya

.... Respondents

=====

Appearance :

For the Petitioner/s : Md. Anisur Rahman, Advocate

For the Respondent/s : Mr. Sanjit Kumar Tiwari, AC to AAG-12

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 06-10-2015

I have heard learned counsel for the petitioner and the State.

Though, this writ application was filed in the year 2013 but no counter affidavit could be filed on behalf of the State till date.

In above view of the matter, this writ application is being considered and disposed of without waiting further for filing of the counter affidavit.

The petitioner is aggrieved by the order dated 31.05.2013 passed by the District Magistrate-cum-Licensing Authority, Gaya by



which he has rejected the application of the petitioner for grant of arms licence merely on the ground that the Superintendent of Police has only forwarded the opinion of his subordinate police officer without himself recommending for grant of arms licence. It has further been stated that neither the report nor would the petitioner satisfy that there is any threat perception upon him. It has further been stated that lodgment of Amas P.S. Case No.7/2004 would not be enough evidence for that as the trial is still pending in the aforesaid case.

In my considered view, the impugned order is not sustainable in view of the fact that there is clear statement in the letter written by the Senior Superintendent of Police, Gaya that the petitioner is residing in an extremist affected area and the petitioner was already subjected to assault and for that Amas P.S. Case No.7/2004 under Sections 147/148/149/452/384/307/504 of the Indian Penal Code and Section 27 of the Arms Act was lodged. It has also been stated in the impugned order that the petitioner could not clarify as to how he will protect his firearms in view of the fact that he is residing in extremist affected area. In my view, that ground is also not sustainable, inasmuch as, in such case, not a single licence for firearms can be issued in extremist affected area and the Licensing Authority has not examined this aspect as to whether any firearm has

been issued in the area in which the petitioner is residing or not? That apart, this Court has already held in a decision dated 11.08.2015 rendered in ***CWJC No.18535 of 2011 (Manish Kumar Vs. The State of Bihar and Ors.) and other analogous matters*** that lack of production of specific evidence regarding any threat perception does not form a ground for refusal of arms licence under Section 14 of the Arms Act.

Accordingly, this writ application succeeds. The impugned order dated 31.05.2013 (Annexure-16) is quashed and set aside. The matter is remitted back to the District Magistrate-cum-Licensing Authority to take a fresh decision in accordance with law within a period of four months from the date of receipt/production of a copy of this order after considering all these aspects and also the observation of this Court in this case as well as in the aforesaid decision rendered in CWJC No. 18535 of 2011.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

U			
---	--	--	--