

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12159 of 2016

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Satyendra Kumar S/o Sri Shardanand Singh R/o Jamunaji Ka Math, Nai Sarak,
P.S. Chowk, Patna City, P.O. Jhauganj, Town & District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. The Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. Sr. Superintendent of Police, Patna.
5. Additional District Magistrate (Arms), Patna.
6. District Arms Magistrate, Patna.
7. S.H.O. Chowk Police Station, Patna.

.... Respondents

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Appearance :

For the Petitioner : Ms. Manisha Pandey, Advocate

For the Respondents : Mr. Apurva Kumar, AC to GA 4

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 22-11-2016

I have heard parties and perused the records of this case.

The petitioner is aggrieved by the order dated 9.7.2016 / 13.7.2016 (Annexure 9) passed by the District Magistrate, Patna by which the petitioner's application for grant of licence has again been rejected. The petitioner's application was earlier rejected by the licensing authority vide order dated 7.5.2013 (Annexure 5) which was assailed in Arms Appeal No. 541/2013. The appeal was also dismissed vide Annexure 6 dated 4.6.2015/4.8.2015. When the petitioner approached this Court by filing C.W.J.C. No. 12695/2015, the order impugned was found in the teeth of the decision of this



Court rendered in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]**. It was noticed that the refusal was on sole ground on lack of evidence regarding specific threat perception. This Court had given direction that if no development has taken place subsequent to the order dated 7.5.2013 disentitling the petitioner from holding a firearm licence, then only recourse open to the licensing authority would be to grant a firearm licence to the petitioner. However, liberty was also given to consider the material which was required to be considered on earlier occasion but the same could not be done for any reason.

In the second round again the application for firearm licence has been rejected, firstly, taking a ground that the petitioner has failed to disclose the place of his business at the time of interview whereas in the police verification report it is stated that he runs a business of cell phone at Bakarganj, Patna. Thereafter, few passages from some order of the Allahabad High Court (Lucknow Bench) have been quoted saying that grant of licence is not a right rather it is statutory privilege available with the State and which should be disassociated from the status symbol but it is also noticed therein fact no impact study has been held. Lastly, it is stated that in the interest of public peace and tranquility licensing authority has come to the conclusion that petitioner is not entitled to hold firearm licence as the same would tantamount unnecessary increase of firearms.



Learned counsel for the petitioner has submitted that admittedly the petitioner is a businessman and he runs a business which is situated at Bakarganj and the same was neither a secret nor a mystery. Even the earlier order passed by the appellate authority discloses that fact and so does the police verification report. It is contended that again a police report was sought which was submitted, a copy of that is appended as Annexure 10. It appears from perusal of the report that the police has not found anything adverse against the petitioner and has clearly made recommendation in favour of the petitioner stating that, since it is necessary for the protection of the petitioner and his business, firearm licence should be granted to him.

Counter affidavit has been filed on behalf of the State defending the order impugned saying that petitioner has tried to suppress his place of business but when a simple question was asked from the learned counsel appearing for the State that if it was known to the licensing authority on 7.5.2013 on the basis of write statement filed by the petitioner that he runs a business of cell phone from his Bakarganj shop and his actual income is Rs. 1,93,126/- why the licensing authority is giving a colour that petitioner was secretive regarding disclosure about the place of his business, learned counsel appearing for the State could not show from the counter affidavit that there is any explanation to that. Of course the Arms Act has given



discretionary power to the licensing authority for rejecting or granting licence but arbitrary exercise of power cannot be allowed by a court of law. In the order passed in the earlier writ petition, this Court had clearly observed that no other ground for refusal of licence has been taken by the licensing authority save and except the ground that the petitioner has not been able to produce evidence regarding specific threat upon him and, as such, no other ground can be taken for refusal. A liberty was granted to consider such ground also which could not be considered on the earlier occasion and was vital for deciding a case. However, he has again faulted as he has not assigned any reason due to which he has come to a conclusion that a gun in the petitioner's hand would be detrimental for the society at large save and except that it would increase number of firearms.

In my considered view, the order passed by the licensing authority, apart from being contumacious in nature, for violating the direction of this Court, is also without any foundation or basis as there is no impact study, which has been referred by him, to show how a gun in the hand of a law abiding citizen would be detrimental for the peace and tranquility of society or public safety. This court while dealing with identical issues held in order dated 1.2.2016 passed in **C.W.J.C. No. 13391 of 2014 (Deepak Kumar versus The State of Bihar & ors)** appended as Annexure 12, that there is no presumption that a gun of permitted bore in the hand of a lawful



citizen would be detrimental for the peace or for public safety unless he has been found to be involved in some conflict with a person or group of persons.

Since the petitioner is running a business and as such financial activities are involved and he requires a gun of permitted bore for his safety and the police authority has also found the claim to be correct in its report and recommended for grant of licence, I wonder what else could be a good reason for grant of licence.

In my considered view, the order impugned (Annexure 9) is not at all sustainable in the eye of law and as such the same is quashed and set aside. Matter is remitted back to the licensing authority to take a decision within a period of two months from the date of receipt / production of a copy of this order and while doing that he will not only follow the direction issued by this Court in Annexure 7 dated 6.10.2015 but also the present order, to take a decision in accordance with law.

This writ petition is allowed with the aforesaid observations and directions.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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