

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12775 of 2016

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Anil Kumar, son of Sri Parshuram Tiwary, resident of Village- Chhotaki Nainijor,
Police Station- Nainijor, District- Buxar.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The Superintendent of Police, Buxar.
4. The Sub Divisional Officer, Dumaraon, Dist- Buxar.
5. The Officer in-Charge, Nainijor Police Station, District- Buxar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Surendra Kr. Chaubey, Advocate
Mr. Vijay Shankar Upadhyay, Advocate
For the Respondent/s : Mr. Partha Sarthi, GA-4
Mr. Apurva Kumar, AC to GA-4

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 28-11-2016

Heard parties.

The petitioner is aggrieved by the order dated 29.01.2016 passed by the District Magistrate, Buxar in Arms Case No.176 of 2015, as contained in Annexure-5, by which his request for grant of licence for N.P. Bore Rifle under Family Heirloom Policy has been refused on the ground of lack of specific evidence regarding threat perception.

The licensing authority has referred a letter dated 13.04.2010 of the Home Ministry, Government of India and has stated that according to such letter unless there is recommendation by police

authorities that the petitioner has been threatened by somebody, the licence cannot be granted. However, relevant passage has not been quoted.

The aforesaid letter has already been considered by this Court in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]** and held that such letter only recommends that a person who is under threat should be granted licence but it does not oust others otherwise the competency of the authority for issuing of such letter guiding the licensing authority would itself in a question. However, the licensing authority forgot to take notice of that part of the same letter under which guidance has been given for grant of licence under Family Heirloom Policy.

It is stated in the impugned order itself that the petitioner's father is holding N.P. Bore Rifle under valid licence and since he has become old, now he wants that the gun should be transferred in the name of the petitioner. Therefore, the petitioner has applied for grant of arms licence.

In my view, if the petitioner is otherwise unfit to not hold the licence, such refusal would be bad.

So far threat perception is concerned, that aspect has been discussed and considered in detail in Manish Kumar (Supra) holding that threat perception does not mean that a person, to qualify himself

to get a firearm licence, would have to face actual overt act rather merely apprehension of the same would be enough. That apart, it has further been held that the lack of evidence regarding specific threat perception does not form a ground for refusal of licence under Section 14 of the Arms Act, 1959.

Accordingly, this application succeeds. The impugned order dated 29.01.2016, as contained in Annexure-5, is quashed and set aside. The matter is remitted back to the licensing authority to take a fresh decision in the matter in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

While doing so, he would be obliged to consider the aforesaid discussion and observation made by this Court as also the decision of this Court rendered in Manish Kumar (Supra).

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
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