

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16041 of 2016

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Alok Ranjan, Son of Jai Prakash Narayan Madhukar, Resident of
Village- Kunhia, P.S. Kesaria, District- East Champaran.

..... Petitioner.

Versus

1. The State of Bihar.
2. The District Magistrate, Motihari, East Champaran.
3. The Superintendent of Police, Motihari, East Champaran.
4. The Officer-in-Charge, Kesaria Police Station, East Champaran.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Vijay Shankar Shrivastava, Adv.

For the Respondents: Mr. Iqbal Asif Niazi, AC to GP5.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-12-2016

Heard learned counsel for the petitioner and the
State.

The petitioner is aggrieved by the order dated
23.02.2016 passed by the District Magistrate, East Champaran in
Arms Case No. 64 of 2015, as contained in Annexure-2, by
which his request for grant of arms licence for Revolver has been
refused on the ground of lack of specific evidence regarding
threat perception.

This is yet another case in which application for
grant of firearm licence has been rejected on the ground that the
applicant has not been able to produce evidence regarding the
specific threat upon him. The Superintendent of Police, East



Champanan at Motihari has not recommended his case. Some guideline issued by the Home Ministry and Central Government has already been quoted. However, the guideline issued by the Home Ministry and the passage quoted does not show that the licence is only to be granted in the case of grave and imminent threat upon a person and in all other cases it has to be refused rather it is stated that if there is imminent threat on the lives of persons then they may be considered for grant of licence. Another ground for refusal is that the petitioner's father is having a licence. Thereafter, the District Magistrate has come to the conclusion that grant of licence to the petitioner would be detrimental to the public peace.

In my view, all the grounds taken for cancellation are not sustainable in the eye of law. Section 13(2) of the Arms Act, 1959 lays down in clear terms that the licensing authority would seek opinion of the Officer In-charge of the nearest Police Station. Thus, opinion of Superintendent of Police was not mandatory. It is not stated as to why the Superintendent of Police has not recommended for grant of licence. If the ground is only to the extent that petitioner's family has not been actually threatened by anybody then it would be meaningless as it is well settled that to qualify himself/herself to get a firearm licence, one does not have to face actual overt act rather mere 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. A reference in this regard is made to the decision by this Court rendered in the case of *Manish Kumar Vs. The State of Bihar and Ors. reported in 2015 (4) PLJR 212*.

Further, even if the petitioner's father is having a firearm licence, petitioner cannot utilize the same. Thus, such ground would also not be available for refusal. So far public peace is concerned, it is not stated anywhere that petitioner has any criminal record or there is any adverse entry against the petitioner. It cannot be held that a gun in the hand of law abiding citizen would be detrimental for public peace.

It is urged on behalf of the State that petitioner has filed this application without availing the statutory remedy of appeal.

However, the aforesaid submission made on behalf of the State is noted only to be rejected. Since it has been held as above that the order has been passed dehors the settled law, there would be no occasion to relegate the petitioner to the appellate authority.

Thus, in my considered opinion, the order impugned is not at all sustainable in law and, as such, the order dated



23.02.2016 passed by the District Magistrate, East Champaran in Arms Case No. 64 of 2015, as contained in Annexure-2, is quashed and set aside.

The matter is remitted back to the District Magistrate, East Champaran at Motihari to take a fresh decision on its own merit and in accordance with law. While doing so, he would be obliged to consider the aforesaid discussion and observations made by this Court as also the decision of this Court rendered in the case of **Manish Kumar (supra)**.

It is expected that the entire exercise would be completed within a period of four months from the date of receipt/production of a copy of this order.

Accordingly, this writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2017
Transmission Date	NA

