

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2253 of 2016

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Subodh Prasad, son of Late Umakant Singh, resident of Vill- Khojagachhi,
P.S.- Barbigha, District- Sheikhpura.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Home and General Administration,
Govt. of Bihar, Old Secretariat, Patna.
2. The Commissioner, Munger Division, P.S. and District- Munger.
3. The District Magistrate, Sheikhpura, P.S. and District- Sheikhpura.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dr. Anjani Pd. Singh, Advocate
For the Respondents : Mr. Ashok Kumar, S.C. II

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 22-02-2016 Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 20.11.2015 passed by the District Magistrate-cum-Licensing Authority, Sheikhpura, by which, he has rejected the application of the petitioner for grant of firearm licence for revolver/ pistol on the ground that he along with his brother is already having a licence for revolver/pistol and, therefore, he wants the licence only as a status symbol. It is also stated in the order that so many firearms in possession of a person of a family may be detrimental for public peace.

Learned counsel appearing for the State has submitted that the petitioner has erred in law by filing this writ application without availing the alternate remedy of appeal.



It appears from the impugned order that the same has been passed after setting aside the earlier order of refusal of licence passed by the Commissioner, Munger. Ordinarily, this Court would have relegated the petitioner to the appellate authority for preferring statutory appeal as provided under Section 18 of the Arms Act, 1959, however, in several of its decision including some passed by this Court, this issue has already been considered and decided holding that under Section 3(2) of the Arms Act, 1959, a person at any time can carry not more than three firearms, thus, if one firearm is already in possession of the petitioner, refusal for another cannot be on such ground. The observation of the Licensing Authority that more than one firearm in possession of a person can be detrimental to the peace of the society, is not sustainable inasmuch as when the conduct of the person is not up to mark then even possession of one firearm would be detrimental to the peace of society but if, after ascertaining that the petitioner requires firearm and his conduct is fair then only licence for N.P. Bore rifle was granted to him, which is in case of the petitioner, it cannot be presumed that guns in the hand of law abiding citizens would be detrimental for public peace otherwise the legislature in its wisdom ought not have permitted three firearms to a person. Though, this has been

observed by Licensing Authority that there is no specific evidence regarding threat perception upon the petitioner, it is surprised as to how the licence for N.P. Bore rifle was granted to the petitioner at the first instance ?

Be that as it may, this Court in *Manish Kumar v. State of Bihar and other analogous cases A.I.R. 2016 Patna 9* has already held that lack of production of evidence regarding threat perception does not form a ground for refusal of licence. It is held that in view of the fact that impugned order is not sustainable in law as mentioned above, no purpose would be served if the petitioner is relegated to the Appellate Authority.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure 1 is quashed and set aside. The matter is remitted back to the Licensing Authority for fresh consideration in accordance with law expeditiously, preferably within a period of 03 months from the date of receipt/ production of a copy of this order.

(Dr. Ravi Ranjan, J.)

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