

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6798 of 2016

Ritesh, Kumar S/o Sri Chandra Bhanu Mehta, Resident of Tulsi Mandi, P.S. -
Alamganj, District & Town Patna.

.... Petitioner/s

Versus

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

.... Respondents

Appearance :

For the Petitioner : M/s. Manisha Pandey,
Shweta Pandey, Advocates
For the State : Mr. Thakur Jai Singh, A.C. to S.C. 26

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 25-04-2016

Heard parties.

This is yet another order which is under challenge on the ground that the refusal of grant of firearm licence is on account of lack of specific evidence regarding threat perception completely ignoring the decision rendered in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]** holding that lack of specific evidence regarding threat perception does not form a ground for refusal of licence under Section 14 of the Arms Act, 1959. It is also recorded by the Licensing Authority that there is no clear indication as to for what purpose the petitioner wants firearm



licence. Perhaps he has skipped the declaration made in his application, a copy of which has been appended as Annexure 1 series in which he has clearly indicated that licence is needed for safety of his life and property. The officer-in-charge has also indicated that he is recommending the same for the purpose of his personal safety of his life and property. So reason is apparent from the aforesaid declaration made by the petitioner and the entry made by the officer-in-charge of the police station. It is also indicated that the petitioner's gross income has been shown merely to be Rs.3,13,389/- as if this may also form a ground for refusal, the income being at the lower side. Section 14(2) of the Arms Act, 1959 mandates in this regard that Licensing Authority shall not refuse to grant licence to any person merely on the ground that such person does not own or possess sufficient property.

Learned counsel for the State has raised an issue that the petitioner has approached this Court without availing the statutory remedy of appeal and on that account itself, the petitioner's application is liable to be dismissed and he may be relegated to the appellate authority.

However, in view of the aforesaid fatal lacuna which has been found by this Court in the impugned order passed by the authority, the aforesaid statement made on behalf of the State is

noted only to be rejected. Since the order suffers from fatal lacuna and being in teeth of the decision of this Court rendered in **Manish Kumar (supra)**, there would be no reason for relegating the petitioner to the appellate authority.

Accordingly, this application succeeds. The impugned order as contained in Annexure 7 is quashed and set aside. The matter is remitted back to the Licensing Authority to take a fresh decision 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 decision of this Court rendered in **Manish Kumar (supra)**.

(Dr. Ravi Ranjan, J)

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