

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9563 of 2016

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Tushar Ranjan Ray, Son of Late Vivash Chandra Ray, Resident of 101, 102 Sandhya Apartment, Ramna Road, P.S.- Pirbahore, Patna-14.

.... Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Bihar Patna.
2. The Commissioner, Patna Division, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Surendra Kumar Mishra, Advocate
For the State : Mr. Prabhat Bharti, GP23

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 27-06-2016

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 29.04.2015 passed by the District Magistrate, Patna, contained in Annexure 8 by which his application for grant of licence so that he could retain SBBL gun given to his uncle as a gallantry award, has been rejected by the licensing authority on the ground that he is a short tempered person and he has not been subjected to any overt act as well as under the guideline issued by the Department of Home, he cannot be considered as a valid legal heir being his nephew.

It is contended on behalf of the petitioner that this is the third time that his application has been rejected. On earlier occasions he had moved the appellate authority and the matter was



remitted back to the licensing authority for consideration. On the last occasion, the appellate authority has passed the order which has been appended as Annexure 6 holding that, since the petitioner wants to retain the specific firearm which was given to his deceased uncle as a gallantry award and he is ready to surrender one of the firearms which have been given to him under the Family Heirloom Policy, the petitioner's case should be considered for grant of such licence, however, again the licensing authority has rejected the same.

In my view, the grounds taken by the licensing authority for rejection are not tenable and, as such, the order impugned cannot be sustained in law. It is intriguing as to how grant of firearm licence can be rejected on the ground that the petitioner is a short tempered person when he has already been granted firearm licences, thus, such ground is not tenable at all.

So far threat perception is concerned, it has already been held on several occasions by this Court that to enable himself for grant of firearm licence, one does not have to suffer any overt act, as such, the observation that the petitioner has not been subjected to any overt act is also not tenable for refusal of firearm licence.

So far the issue as to whether the petitioner would be entitled to be given a licence under the Family Heirloom Policy is



concerned, in my view, though “nephew” has not been mentioned in the policy but, at the same time, it is stated that the scope of the legal heir is extended to the husband, wife, son and daughter normally. In the present case, it is not the normal situation as the uncle of the petitioner has never married and, as such, he died issueless. Thus, the petitioner as per the schedule appended to the Hindu Succession Act being Class II heir in the absence of any Class I heir would be entitled to retain the property of his deceased uncle. Such being the situation, the order impugned, in my considered opinion, cannot be sustained in law as this aspect of the matter has not been considered by the District Magistrate. That apart, it is being claimed by the petitioner that he has already been granted licence to keep certain firearms held by his uncle.

Accordingly, this application is allowed, the impugned order contained in Annexure 8 is quashed and set aside and the matter is remitted back to the District Magistrate-cum-Licensing Authority, Patna, i.e., respondent no. 4, for fresh consideration in accordance with law within a period of two months from the date of receipt/production of a copy of this order. While doing so, he would be obliged to consider the observation and finding of this Court made in the present order.

It is made clear that the petitioner is already holding two

firearms, thus, in case the order is passed in favour of the petitioner, there would be no requirement of surrendering the earlier granted firearm licence by him if the total does not exceed three in view of the provision contained in section 3(2) of the Arms Act which permits multiple licences to the licensee to the maximum of three. However, if the petitioner is already holding three licences then he would be required to surrender one of them.

(Dr. Ravi Ranjan, J)

SC/-

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