

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14988 of 2014

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Hira Lal Sah son of Sri Chaturi Sah Resident of Village- Parsa Sadan, P.O.- Parsa Patti, P.S.- Sahebganj, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Muzaffarpur
3. The Senior Superintendent of Police, Muzaffarpur
4. The Circle Officer, Sahebganj
5. The Officer-in-Charge, Sahebganj

.... Respondents

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Appearance :

For the Petitioner : Mr. Mani Bhushan Kumar, Advocate
For the State : M/s Gautam Bose, AAG 8 and
S.M.Ghosh, AC to AAG 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-02-2016

Heard learned counsel for the petitioner and the State.

Through this writ application the petitioner seeks quashing of the memo no. 1091 dated 8.7.2014 signed by the District Arms Magistrate stating that his request for grant of licence has been rejected vide order dated 19.6.2014. Since this was merely a communication, this Court had directed the State to produce the order dated 19.6.2014 passed by the licensing authority so that a decision could be taken in this regard.

A supplementary counter affidavit has been filed today appending the relevant pages from the file concerned to show that the order has been passed by the licensing authority. However, it appears



from the aforesaid that a recommendation was made by the District Arms Magistrate, Muzaffarpur addressed to the Additional Collector stating that, petitioner since does not have any imminent threat, his application could be rejected. On such note having been made, the Additional Collector appears to have written to the District Magistrate that the note of the rejection of the application of the petitioner can be approved. Just below him the District Magistrate appears to have signed on 19.6.2014.

Mr. Gautam Bose, learned Senior counsel and AAG 8 has submitted that the District Magistrate has approved the recommendation of the District Arms Magistrate, however, if the petitioner is aggrieved then he has alternative remedy of statutory appeal under Section 18 of the Arms Act, 1959. As such it is contended that the present application should be dismissed.

The aforesaid submission made on behalf of the State is noted only to be rejected. The provisions contained in Section 13 as well as 14 of the Arms Act lays down in clear terms that it is the licensing authority which has to be apply its mind and pass a reasoned order under Section 14(3) of the Act if he is refusing firearms licence to the applicant. Apparently, he has not at all applied his own mind and has merely approved the recommendation of the District Arms Magistrate, which is not a statutory authority for

the said purpose under the aforesaid statute. In view of the fact that no reasoned order admittedly has been passed by the licensing authority, the impugned order is not sustainable at all. Having held so in my view there would be no occasion for relegating the petitioner now to the appellate authority as that would serve no purpose.

Accordingly, the impugned order is quashed and set aside.

Matter is remitted back to the District Magistrate – cum – Licensing Authority, Muzaffarpur for fresh consideration in accordance with law within three months from the receipt / production of a copy of this order.

However, while doing so he would be obliged to consider the decision of this Court rendered in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]**.

This application stands allowed.

(Dr. Ravi Ranjan, J)

Spd/-

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