

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12848 of 2016

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Abhay Kumar Singh, son of Sri Kameshwar Singh, resident of Mohalla-Imamganj
(Araya Nagar), P.S.-Chapra Town, District-Saran at Chapra.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Government of Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The Divisional Commissioner, Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Janardan Prasad Singh, Sr. Advocate
Mr. Arbind Kumar Singh, Advocate

For the Respondent/s : Mr. Amit Kumar, AC to SC-8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-11-2016

Heard parties.

The petitioner seeks quashing of the order dated 8.08.2014 passed by the District Magistrate-cum-licensing authority, Chapra, as contained in Annexure-1, as well as the order dated 16.06.2016 passed by the Commissioner, Saran Division, Saran at Chapra in Arms Appeal No.61/2015 which was preferred by the petitioner against the aforesaid order and which has also been dismissed upholding the decision taken by the licensing authority (Annexure-3).

From perusal of the Annexure-1, it appears that the petitioner has applied for grant of licence for NP Bore Rifle in view of the fact that his father, who is possessing a rifle in his name under

valid licence, has become old and now he wants to transfer the same in favour of his son. Rejection is on the ground that the petitioner has not been able to produce any evidence regarding threat perception.

In my view, such ground would not be available for refusal of licence especially when application is under Family Heirloom Policy. Unless the petitioner is otherwise unfit to hold firearm licence, the licence under Family Heirloom Policy should be granted.

So far threat perception is concerned, this Court has already held in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]** that threat perception does not mean that a person, to qualify himself to get a firearm licence, would have to face actual overt act rather merely 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.

The appellate authority has also failed to consider the aforesaid aspect of the matter.

Accordingly, this application succeeds. The impugned orders, as contained in Annexure-1 and 3, are quashed and set aside. The matter is remitted back to the licensing authority to take a fresh decision in the matter 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 aforesaid discussion and observation made by this Court as also the decision of this Court rendered in Manish Kumar (Supra).

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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