

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10864 of 2016

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Sanjit Kumar Son of Late Kameshwar Prasad Singh resident of Village- Kairwa,
Police Station- Ghosi in the district of Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya
4. The District Magistrate-cum-Collector, Jehanabad.
5. The Superintendent of Police, Jehanabad.
6. The Sub-Divisional Magistrate, Jehanabad.
7. The Deputy Superintendent of Police, Jehanabad.
8. The District Arms Magistrate, Jehanabad.
9. The Inspector-cum-Officer-in-Charge, Ghosi, P.S.- Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate.
For the Respondent/s : Mr. Nagendra Prasad Yadav, SC 23
Mr. Vijya Laxmi Srivastava, Advocate.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-11-2016

Heard the parties.

The petitioner is aggrieved by order dated 04.03.2016
passed by the District Magistrate-cum-Licensing Authority,
Jehanabad, by which he has refused to grant licence to the petitioner.

It appears that petitioner had earlier approached this Court
by filing C.W.J.C. No. 17378 of 2015, which was disposed of vide
Annexure 6, directing the licensing authority to take a final decision
in accordance with law upon the application of the petitioner for
grant of arms licence.



From perusal of the impugned order, it appears that two grounds have been taken by the licensing authority for rejection of the claim of the petitioner.

Though the petitioner is a well placed man and 'Mukhia' of the Gram Panchayat but has not been threatened by any person or by any specific organization (ii) Ghosi P.S. Case No. 220 of 2015, has been registered under Sections 341,323,379,504 and 506/34 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that so far as criminal case is concerned, he has been implicated only for the reason that there was a dispute between the driver of the bus of the petitioner and the driver of bus of one Tufan transport. Since he is the owner of the bus, his name has been dragged in the aforesaid case. He has further submitted that the police has filed final form exonerating the petitioner.

Be that as it may, in my view, both the grounds taken for rejection are not tenable. So far as the first ground regarding specific threat is concerned, this Court, in **Manish Kumar vs. State of Bihar and other analogous cases** rendered in **2015 (4) PLJR 212** has already held that such ground cannot be taken for refusal of the firearm licence. So far as the involvement in criminal case is concerned, there is no such provision under the statute that if a person



is involved in a criminal case, his application for grant of licence would be necessarily rejected. However, in case of **Kapildeo Singh vs. State of Bihar & Ors.** rendered in **AIR 1987 Pat 122**, the Full Bench of this Court has considered the case of cancellation of licence on the ground of involvement of such licensee in a criminal matter. The full Bench has held that though there is no specific provision but there is deemed discretionary power vested in the licensing authority to cancel the licence on the ground of involvement in criminal case but after giving notice and after consideration of reply. However, a strong note of caution has been made by the Full Bench stating that it is not the pendency of each and every criminal case which would inflexibly warrant the suspension or revocation of a licence validly granted. A criminal case may range from a paltry traffic offence to the most horrendous capital crime. Whilst the pendency of the former may hardly provide an adequate basis under [Section 17\(3\)](#), in the case of the latter, after notice and hearing the explanation, such action may well become necessary. The licensing authority has not considered this aspect of the matter and without considering the case, simply on the ground that a criminal case is pending against the petitioner, has proceeded to refuse the licence. What was required was to examine whether it falls under such category of the crime under which no licence should be granted in favour of the applicant but that aspect has



not at all been considered by the licensing authority.

As a result, this application succeeds on both grounds and, accordingly, the impugned order is quashed and set aside. The matter is remitted back to the licensing authority to take fresh decision on its own merit, in accordance with law also taking into account the observations of this court made as above and the decisions rendered in **Manish Kumar** (supra).

It is expected that such decision would be taken within a period of three months from the date of receipt/production of a copy of this order.

The writ application stands allowed.

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2017
Transmission Date	NA

