

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12011 of 2016

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Kaushal Motani Son of Shri Anjani Motani Resident of Mohalla - Jain
Tola, P.S. - Bettiah Town, District - West Champaran.

.... Petitioner.

Versus

1. The State of Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, West Champaran, Bettiah.
4. The Arms Magistrate, West Champaran, Bettiah.

. Respondents.

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Appearance :

For the Petitioner : Mr. Ramakant Sharma, Sr. Adv.
: Mr. Lakshmi Kant Sharma, Adv.
: Mr. Rajesh Kumar, Adv.

For the Respondents: Mr. Mritunjay Kumar, AC to GP 12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 21-11-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated
03.05.2016 passed by the Commissioner, Tirhut Division,
Muzaffarpur in Arms Appeal No. 62 of 2016, as contained in
Annexure-1, by which the appeal filed by the petitioner against
the order dated 30.09.2008 passed by the District Magistrate-
cum-Licensing Authority, West Champaran, as contained in
Annexure-2 has been dismissed.

Petitioner's application for grant of licence has been
rejected on the ground that the petitioner's family is having
about six licences and petitioner is also having two licences, one



of Pistol and another for a DBBL Gun/Rifle, therefore, there is no requirement for granting further licence of revolver/pistol. Secondly, the petitioner is having lower income of only Rs. 1,69,590.60 per annum and he has merely paid Rs. 468/- as income tax. He has not been able to show anything regarding any specific threat upon him.

In my view, none of the grounds taken for refusal is tenable in law. Section 3(2) of the Arms Act, 1959 lays down in clear terms that a person can be in possession or can carry at any time not more than three fire arms which would mean that a person is capable of possessing firearms up to three in number, therefore, petitioner's application for grant of his firearm licence cannot be thrown away on such ground. Secondly, even if petitioner's family members are having firearms that would also not debar him from getting a licence, if he is entitled for the same in law. Thirdly, lack of evidence regarding specific threat perception is not a ground for refusal of licence under Section 14 of the Act.

In above view of the matter, in my considered opinion, the impugned order dated 03.05.2016 passed by the Commissioner, Tirhut Division, Muzaffarpur in Arms Appeal No. 62 of 2016, as contained in Annexure-1 and also the order



dated 30.09.2008 passed by the District Magistrate, West Champaran, Bettiah, as contained in Annexure-2 are not sustainable in law. Accordingly, both the orders are, hereby, set aside and the matter is remanded to the Licensing Authority-cum-District Magistrate, West Champaran, Bettiah for taking 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.

This writ petition stands disposed of.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.01.2017
Transmission Date	NA

