

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16538 of 2016

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Abhimanyu Prasad Singh, Son of Ambika Prasad Singh, Resident of Village- Saho Karma, P.S.- Kashma (Then Rafiganj), District- Aurangabad (Bihar).

.... Petitioner

Versus

1. The State of Bihar.
2. The Home Secretary, Govt. of Bihar, Patna.
3. The Deputy Inspector General, Magadh Range, Gaya.
4. The District Magistrate, Aurangabad (Bihar).
5. The District Arms Magistrate, Aurangabad (Bihar).
6. The Superintendent of Police, Aurangabad (Bihar).
7. The Sub-Divisional Magistrate, Aurangabad (Bihar).
8. The Deputy Superintendent of Police, Aurangabad (Bihar).

.... Respondents

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Appearance :

For the Petitioner : Mr. Birendra Kumar Singh, Advocate
For the State : . Md. Harun Quareshi, A.C. to S.C. 1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-12-2016

Heard parties.

Petitioner is aggrieved by Annexure 1 which is an order dated 25.06.2016 passed by the District Magistrate, Aurangabad.

This is not the first time that the petitioner has approached this Court as petitioner was refused licence on an earlier occasion, however, the order which was set aside by this Court vide order dated 23.11.2015 passed in C.W.J.C. No.13858 of 2015 (Annexure 13) holding that impugned order was passed on 18.04.2015 after about 29 years without granting reasonable opportunity to the petitioner and it



was also apparent from the recommendation of the Officer-in-Charge that the petitioner's village was affected by extremist activity. Still the Licensing Authority came to the conclusion that petitioner did not have any threat perception.

It is contended on behalf of the petitioner that, even after remand, no order was being passed, however, when the M.J.C. No.1265 of 2016 was filed for initiation of a proceeding of contempt then the impugned order has been passed in haste without even recording as to under what circumstances the Licensing Authority has refused licence. From perusal of the impugned order, it appears that, according to the Licensing Authority, petitioner's village has about 300 houses and none of the persons are holding firearm licence for the reason that they have apprehension that their firearms would be looted or snatched away by the extremists. According to the order impugned, filing of application for grant of firearm necessitated when, in the year 1978, there was some occurrence. However, that was considered to old matter and, thereafter, according to the Licensing Authority, the extremists have been chased away and they themselves are under threat.

Though the Licensing Authority has recorded everything but has not recorded any finding as to why he is refusing licence save and except quoting some passage from some instruction issued by the



Home Ministry of the Central Government that proliferation of arms vitiates the law and order situation and holding of sophisticated arms by the conflicting parties directly contributes towards lethality of violent acts. Therefore, in principle, proliferation of arms need to be curbed.

However, even that instruction also says licence should be avoided to the conflicting parties whereas it is nowhere stated that petitioner is also in conflict with any person or he is involved in any criminal case. The Licensing Authority has stated that grant of licence to the petitioner would be detrimental for public peace but he has not recorded any reason for reaching to such conclusion. In such a situation, such observation of the Licensing Authority has to be held as arbitrary in nature not being supported by any material.

Thus, in my considered view, the order impugned is not at all sustainable in law. At this juncture, it is submitted on behalf of the State that petitioner has approached this Court without availing the statutory remedy of appeal. Of course, the petitioner should have preferred appeal, however, when fatal lacunae have already been found by this Court in the impugned order, it would be meaningless to relegate the petitioner to the appellate authority.

As a result, this writ application succeeds. The impugned order, as contained in Annexure 1, is quashed and set aside. The



matter is remitted back to the Licensing Authority for fresh consideration within a period of three months from the date of receipt/production of a copy of this order. It is made clear that the Licensing Authority should examine the record and pass appropriate order based on such material and not on flimsy grounds.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2017
Transmission Date	NA

