

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2869 of 2016**

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Upendra Pratap Singh, son of Late Bindeshwari Singh, resident of Village- Pithari,  
P.S.- Rajpur, District- Buxar.

.... .... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Buxar, P.O. & District-  
Buxar.
2. The District Magistrate, Buxar.

.... .... Respondents

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**Appearance :**

For the Petitioner : M/ Alok Kumar and  
Binod Bihari Sinha, Advocates  
For the State : Mr. Amit Kumar Anand, AC to GP15

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 29-02-2016**

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 22.4.2015 as  
contained in Annexure 7 passed by the District Magistrate cum  
licensing authority, Buxar by which he has refused to grant licence of  
the petitioner on the ground that he has not able to show that there is  
any threat perception upon him.

Petitioner's request was earlier refused by the licensing  
authority vide order dated 16.10.2008 (Annexure 8) on the ground  
that petitioner is already having a licence of N.P.Bore rifle. Petitioner  
preferred Appeal No. 423/2008 which was allowed vide order dated  
19.7.2011 (Annexure 6). The order impugned was set aside and the  
matter was remitted back to the licensing authority for taking fresh



decision after considering the decision dated 14.11.2007 of this Court rendered in C.W.J.C. No. 4382 of 2004. However, again the request of the petitioner has been refused by the impugned order contained in Annexure 7 on diverse grounds. One of the grounds is that Superintendent of Police has not recommended rather has merely forwarded the case of the petitioner. Secondly, that petitioner's cousin brother was killed in 1994, thereafter, he was granted licence for N.P.Bore rifle and since 2005 no untoward incident has been brought to notice, therefore, there is no threat perception upon the petitioner as already one licence has been granted to the petitioner.

In my view such order could not have been passed by the licensing authority without consideration of the decision cited by the appellate authority in Annexure 6 as there was clear direction to pass necessary order in view of that decision of this Court rendered in C.W.J.C. No. 4382 of 2004. The order having passed without considering the same despite the direction of the appellate authority, in my view, is not sustainable.

That apart when learned counsel for the State was put a question as to under which provision of law Superintendent of Police was required to send his recommendation, he could not answer the same.

The provision as contained in Section 13(2) of the Arms



Act, 1959 lays down in clear terms that upon receipt of an application for grant of arms licence the licensing authority will direct the Officer-in-Charge of the concerned police station to send a report which should be considered by him. Therefore, under the statute there does not appear to be any specific requirement that the Superintendent of Police should recommend the case after recommendation of the Officer-in-Charge of the concerned police station. However, under Section 13(2) (A) of the Act the licensing authority can make any inquiry for satisfying himself. Thus, in case he needed further inquiry and such report of the Superintendent of Police was required then he could have simply asked the Superintendent of Police to make a specific report for recommending or not recommending the matter of grant of arms licence to the petitioner. That having not been done, in my view, rejection on such ground is not sustainable. That apart, it is well settled that merely because a person is already having one fire arms licence, he cannot loose eligibility to get multiple licences upto the maximum of three. It is also not required that a person has to face some overt act for entitling him for grant of licence and above all the licensing authority, despite the direction of the appellate authority to consider the law laid down by this Court in the decision noted in the appellate order, has not considered it at all.

Accordingly, in my view the order impugned suffers from vice of arbitrariness and, thus, is not sustainable in eye of law and, as such, the same is quashed and the set aside .

However, the matter is remitted back to the Licensing Authority for taking fresh consideration in accordance with law within a period of three months from the date of receipt / production of a copy of this order.

This writ application stands allowed.

**(Dr. Ravi Ranjan, J)**

Spd/-

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