

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13391 of 2014

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Deepak Kumar S/o late Ramkumar Prasad, Residence of Mohalla- Nehru Chak,
P.S. - Alamganj, P.O.- Gulzarbagh, District- Patna

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar
2. Divisional Commissioner, Patna Division, Patna
3. District Magistrate, Patna
4. Senior Superintendent of Police, Patna
5. Additional District Magistrate (Arms), Patna
6. District Arms Magistrate, Patna
7. S.H.O. Alamganj Police Station, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Ms Manisha Pandey, Advocate

For the State : Mr. D.K. Sinha, AAG 2

Mr. Biresh Kumar Sinha, AC to AAG 2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-02-2016

I.A. No. 6947 of 2015:

Heard the parties.

This writ application was initially filed for a direction to the District Magistrate, Patna for taking a final decision upon the application filed by the petitioner for grant of licence of N.P. bore revolver/pistol, however, during the pendency of this writ application a decision has been taken which is sought to be challenged by amending the writ petition. A copy of the order has been appended as part of Annexure 4 series to the supplementary affidavit filed today.

In view of the fact that the order has been passed during the pendency of the writ petition, this Interlocutory Application is

allowed and the petitioner is permitted to assail the order dated 30.06.2015 passed by the District Magistrate-cum-Licensing Authority, Patna.

C.W.J.C. No.13391 of 2014

Heard the parties.

From perusal of the impugned order it appears that licence has been refused due to lack of specific evidence regarding threat perception and also for the reason that, though the petitioner claims that his turnover is more than one crore rupees, however, from the records it appears that his turn over is merely Rs. 3,85,000/-.

In my view, the order impugned cannot be sustained on both counts as this Court in **Manish Kumar v. The State of Bihar and others (AIR 2016 Patna 9)** has already held that lack of specific evidence regarding threat perception does not form a ground for rejection of licence under section 14 of the Act as threat perception does not mean that a person has to suffer any overt act for entitling him for grant of firearm licence. Even apprehension of such threat perception would be enough. The advisory of the Central Government has also been dealt with in the aforesaid decision rendered in **Manish Kumar(supra)**. The District Magistrate has quoted section 14(1)(b)(ii) of the Act for the said purpose which is extracted as under:

“14(1)(b)(ii). Where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.”

It appears from the aforesaid provision that if the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence to a person, he can do so. However, section 14(3) lays down in clear terms that the reasons should be recorded for such refusal.

Now, the question for consideration is as to whether lack of evidence regarding threat perception for grant of firearm licence could be a reason for refusal under section 14(1)(b)(ii) of the Act?

In my view, the answer has to be in negative as there is no presumption that a gun of permitted bore in the hand of a lawful citizen would be detrimental for the peace or for public safety unless he is involved in some conflict with a person or group of persons. Simply saying that since there is lack of evidence regarding threat perception the licence for firearm would be detrimental for the peace or for public safety of the society, is not tenable. The legislature in its wisdom has laid down the procedures to be adopted and conditions for grant of firearm licence under sections 3 and 13 of the Act and grounds under which the firearm licence can be refused stand enumerated under section 14 of the Act.

Secondly, section 14(2) of the Act lays down in clear terms

that the licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property, therefore, the ground stated in the impugned order that the turnover of the petitioner is merely Rs. 3,85,000/- cannot form a ground for refusal of the licence in view of the statutory provision.

Accordingly, this application is allowed, the impugned order is quashed and set aside and the matter is remitted to the District Magistrate-cum-Licensing Authority, Patna for taking fresh decision in the matter of the petitioner on its own merit and in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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