

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16371 of 2014

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Md. Neyazul Haque son of Late Md. Ishrail Resident of Village
Pandhchakbahauddin P.S. Dalsingsarai, District Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Collector, Samastipur.
3. The Superintendent of Police, Samastipur.
4. The Sub-Divisional Officer, Dalsingsarai.
5. The Circle Officer, Dalsingsarai.
6. The Sub Divisional Police Officer, Dalsingsarai.
7. The Officer In-Charge, Dalsingsarai Police Station, Samastipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha, Advocate

For the Respondent/s : Mr. Ajay, G.A.-12

Mr. Sanjay Kumar, AC to G.A.-12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-04-2016

As prayed, learned counsel for the petitioner is permitted
to make necessary correction with respect to the name of the
petitioner in the case column in course of the day.

Heard parties.

This writ application was initially filed for a direction to
the Licensing Authority, Samastipur to grant arms licence to the
petitioner as his application for such purpose was pending. However,
during the pendency of this writ application, the order dated 3.03.2015
was passed by which arms licence has been refused to the petitioner.

I.A. No.1147/2016

This interlocutory application has been filed for challenging the aforesaid order dated 3.03.2015.

Accordingly, I.A. No.1147/2016 is allowed. The petitioner is permitted to challenge the aforesaid order as contained in Annexure-9 also.

Let the averments made in the interlocutory application form part of the writ petition.

CWJC No.16371/2014

It appears from the order impugned that refusal is on the ground that no 'sanha' etc. has been lodged in respect to the threat perception against the petitioner and also that the Superintendent of Police, Samastipur has not made any recommendation rather he has merely forwarded his application. In my view, both the grounds are not tenable.

So far as the specific evidence regarding threat perception is concerned, this Court in ***Manish Kumar Vs. The State of Bihar and Ors. [2015 (4) PLJR 212]*** has held that non-production of specific evidence regarding threat perception upon the applicant cannot form a ground for refusal of arms licence under Section 14 of the Arms Act, 1959.

So far as other ground is concerned, Section 13 (2) of the Arms Act mandates that a Licensing Authority shall call for a report

from the Officer-in-charge of the nearest Police Station on the application for grant of licence but it is not required under such provision that there should be recommendation of the Superintendent of Police. Therefore, it appears that the recommendation of the Officer-in-charge has merely been forwarded by the Superintendent of Police, however, in case the licensing authority needed some enquiry by the Superintendent of Police also then he could well have sought that by making such request but he does not appear to have done that. Be that as it may, the petitioner cannot be faulted with for such action as has been taken by the authorities.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure-9 is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision in the matter in accordance with law within a period of three months from the date of receipt/production of a copy of this order considering the observations made in this order as well as the decision of this Court rendered in ***Manish Kumar Vs. The State of Bihar and Ors. [2015 (4) PLJR 212.***

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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