

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9330 of 2016

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Shabeena Khatoon, Wife of Enayat Ali, Resident of Mohalla - Bihari Saw Lane,
P.O. Bankipur, P.S. Pirbahore, Districtt - Patna

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna
2. The Divisional Commissioner, Patna Division, Patna
3. The District Magistrate, Patna
4. The Arms Magistrate, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Kumar Rajeev, Advocate
For the State : Mr. Prabhat Ranjan, A.C. to G.P. 12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-07-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 14.01.2016

(Annexure 3) passed by the District Magistrate-cum-Licensing Authority, Patna by which he has refused to grant firearm licence to the petitioner on the ground that there is no recommendation by the Senior Superintendent of Police or Deputy Superintendent of Police and though officer-in-charge has recommended but has not stated any specific reason for grant of licence. Thereafter, further ground has been taken that the petitioner's husband is already having a firearm on valid licence.

In my view, both the grounds taken for refusal of licence are not tenable as Section 13(2) of the Arms Act, 1959 provides to the extent that the Licensing Authority will seek report



from the officer-in-charge but it does not provide that the recommendation of Superintendent of Police is mandatory. However, in case the Licensing Authority was not satisfied with the recommendation of the officer-in-charge, he could have also held further inquiry and that may include seeking a report from the Superintendent of Police also but that having not been done, the licence ought not to have been refused on such ground specially when the officer-in-charge has already recommended for that. That apart, the petitioner's husband already having a firearm under valid licence is also not a valid ground for refusal inasmuch as that firearm cannot be used by the petitioner.

Accordingly, this writ application succeeds. The impugned order, as contained in Annexure 3, is quashed and set aside. The matter is remitted back to the Licensing Authority for taking a fresh decision 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)

Sanjay-II/-

AFR/NAFR	NAFR
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