

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18628 of 2014

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Anil Kumar Tiwary, Son of Sri Rama Shankar Tiwary, resident of Village -
Jhalkhoriya, Police Station - Kudra, District - Kaimur (Bhabhua).

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Kaimur (Bhabhua).
4. The District Arms Magistrate, Kaimur (Bhabhua).
5. The Officer-in-charge, Kudra, District - Kaimur (Bhabhua).

.... Respondents

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Appearance :

For the Petitioner/s : Rakesh Kumar, Advocate
Mr. Sunil Kumar Singh, Advocate
For the Respondent/s : Mr. Radha Mohan Pathak, AC to SC-29

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-06-2016

I.A. No.4359 of 2016

This interlocutory application has been filed for addition of relief, i.e., for quashing the order dated 12.12.2012 passed by the District Magistrate-cum-Licensing Authority, Kaimur at Babhua in Arms Licence Case No.15/2012-13, as contained in Annexure-5.

It is contended that though the order was appended in the main writ petition but inadvertently only quashing of the appellate order was sought and not the order passed by the original authority.

In the facts and circumstances of the case, this interlocutory application is allowed. The petitioner is permitted to assail Annexure-5.

C.W.J.C.No.18628 of 2014

Heard parties.

The petitioner seeks quashing of Annexure-5 which is an order dated 12.12.2012 passed by the District Magistrate-cum-Licensing Authority, Kaimur at Babhua in Arms Licence Case No.15/2012-13 by which his application for grant of licence for DBBL gun has been rejected. He also assails the order dated 22.07.2014/13.08.2014, as contained in Annexure-6, passed by the Divisional Commissioner, Patna in Arms Appeal No.227/2013 by which his appeal preferred against the aforesaid order has also been dismissed.

It is contended on behalf of the petitioner that his maternal grand father is possessing a DBBL gun under a valid licence but in view of the fact that he became old, he wants to transfer his gun in favour of the petitioner.

From perusal of the impugned order passed by the licensing authority, it appears that refusal is on the ground that the petitioner has not been able to produce any evidence showing that he is the sole heir of the licensee and also that he has not been able to produce evidence regarding any threat upon him. In my view, both the grounds taken for refusal of licence are not tenable. The licensing authority could have enquired as to whether the maternal grand father of the petitioner wanted to transfer his gun in favour of the petitioner or not? If he was willing to do in view of his old age then a decision

should have been taken in accordance with law and under the Family Heirloom Policy.

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.

Thus, in my view, both the impugned orders cannot be sustained in law.

Accordingly, the impugned orders as contained in Annexure-5 and 6 are quashed and set aside. The matter is remitted back to the Licensing Authority to take a fresh decision 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 is allowed to the aforesaid extent.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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