

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13349 of 2014

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Voym Anand, sonn of Sri Radha Krishna Singh, C/o- Bachha Babu, Anand Ashram, 27 Gayatri Nagar, Malahi Pakri, Kankarbagh, P.S. Kankarbagh, District AND Town- 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. Kankarbagh Police Station, Patna

.... Respondents

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Appearance :

For the Petitioner : Ms Manisha Pandey and
Ms Shweta Pandey, Advocates

For the State : Mr. Ashok Kumar Verma, AC to SC17

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-07-2016

I.A. No. 6930 of 2015:

Heard the parties.

Office has reported that the main Interlocutory Application could not be traced out, therefore, a copy of the same has been obtained from the petitioner which has been kept on the record and is being considered for the needful with the consent of the parties.

This interlocutory application has been filed for the purpose of assailing the order dated 09.05.2015 which has been appended as Annexure 5 with the supplementary affidavit filed on

behalf of the petitioner.

It appears from the order that it was passed on 09.05.2015 but a copy of the same was communicated to the petitioner vide memo no. 43 Mu/200 Patna dated 22.06.2015. Admittedly, the order has been passed during the pendency of the writ petition.

Accordingly, this Interlocutory Application stands allowed and the petitioner is permitted to assail the aforesaid order.

C.W.J.C. No. 13349 of 2014

Heard the parties.

This application has been filed for quashing of the order dated 09.05.2015 passed by the District Magistrate-cum-Licensing Authority, Patna, respondent no. 3, by which his application for grant of firearm licence has been rejected chiefly on the following grounds:

(a) The petitioner has not been able to make out a case that he has threat perception;

(b) Since the father of the petitioner is already holding a DBBL firearm licence he should not be granted firearm licence;

(c) Though a First Information Report for an offence of attempt to commit murder with respect to his father was lodged in the year 2003 but neither the petitioner nor the Officer-in-Charge of the concerned Police Station has disclosed as to what is the

status of that case;

(d) The petitioner has suppressed the fact that his father was also having a firearm licence and the Superintendent of Police has not recommended the case rather he has merely forwarded the recommendations of the Officer-in-Charge of the concerned Police Station and the S.D.P.O., Sadar.

Learned counsel appearing on behalf of the petitioner submits that non-disclosure of the fact that his father was having a firearm licence was merely a mistake and was not deliberate inasmuch as he himself has appended the copy of the firearm licence as Annexure 2 series. The column 10(c) of the application was kept blank. It is contended that, in fact, at the time of police verification, the petitioner had disclosed before the police authority that his father is holding a firearm licence, as such, the same stands stated in column 13 of the police verification report which has been appended as Annexure C. It is next contended that there is no statutory requirement of recommendation by the Superintendent of Police as the Officer-in-Charge of the Police Station concerned has already recommended the case of the petitioner. It is also contended that there was threat upon the life of the father of the petitioner for which a case was lodged and the status of the aforesaid case does not have any role to play in this

case.

It is urged that the licensing authority could well have obtained the status by asking the Officer-in-Charge of the Police Station concerned. So far the arms licence granted to the father of the petitioner is concerned, the firearm obtained on such licence cannot be utilized by the petitioner in case of apprehension of danger to his life, therefore, the petitioner should be granted licence. So far threat perception upon the petitioner is concerned, it is contended that it has been considered and decided by this Court in **Manish Kumar v. The State of Bihar and others and its analogous cases (AIR 2016 Patna 9)** that lack of evidence regarding threat perception does not form a ground for rejection.

A counter affidavit has been filed on behalf of the State.

Ordinarily, this Court would have granted time for filing further counter affidavit after allowing the Interlocutory Application, however, in the facts and circumstances of the case and on the basis of the materials available on record, in my view, since the order impugned cannot be sustained in law, the matter is being disposed of without waiting further for filing of a supplementary counter affidavit.

Though the petitioner has not disclosed in the Form that a firearm was issued in favour of his father, however, this is also fact



that the aforesaid fact was disclosed in Annexure C to the counter affidavit which is a police report. Further, section 13 of the Arms Act, 1959 stipulates that on an application being filed for grant of firearm licence a report should be sought from the Officer-in-charge of the concerned Police Station and in this case the same is available on record. The S.D.P.O., Sadar, has also forwarded and recommended for grant of firearm licence in favour of the petitioner, therefore, the Superintendent of Police has merely forwarded the recommendation as there is no statutory requirement that again a recommendation should be made by the Superintendent of Police. However, if further some inquiry was still required then the licensing authority could well have asked the Superintendent of Police also to hold an inquiry himself and submit a report. That apart, even if the petitioner's father is having a firearm licence, the petitioner cannot use the same, therefore, whether his father was having a licence or not, is not of much relevance in the present matter. So far threat perception is concerned, the guiding principle would be the decision rendered in **Manish Kumar**(supra).

Having regard to the facts and circumstances, this writ application stands allowed and the impugned order as contained in Annexure 5 is quashed and set aside. The matter is remitted back

to the licensing authority to take a fresh decision in accordance with law also considering the finding recorded in the present order within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

SC/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.09.2016
Transmission Date	NA