

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2416 of 2016

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Chandra Prakash Singh, Son of Sri Dudhnath Singh, resident of
village - Pararia, P.S. Bikramganj, District - Rohtas, Presently
residing at Natwar Road, P.S. Bikramganj, District - Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. The Home Secretary, Government of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Rohtas, Sasaram

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Ashutosh Ranjan Pandey, Advocate

For the Respondent/s : Mr. Syed Arshad Alam- SC3

: Mr. Fakhruddin Ali Ahmad, AC to SC 3.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL ORDER

2 22-02-2016

Heard learned counsel for the petitioner and the
state.

Petitioner seeks quashing of Annexure-5 which is
an order dated 08.08.2013 passed by the District Magistrate-cum-
Licensing Authority, Rohtas at Sasaram.

Petitioner's grandfather was possessing SBBL
gun under valid licence. During his lifetime, he himself requested
the Licensing Authority for transfer of his gun in favour of the
petitioner. Subsequently, he died and the gun was deposited with
the Arms Magistrate. Thereafter, the petitioner applied for grant of



arm licence. His request was rejected on the ground of lack of any evidence regarding threat perception upon him. The petitioner, thereafter, preferred Appeal no. 367 of 2006 before the Commissioner, Patna Division, Patna. The appellate authority vide order dated 31.12.2011 as contained in Annexure-4 had remitted back the matter for fresh consideration to the District Magistrate observing that in a situation when the gun held by the grandfather of the petitioner is required to be transferred in the name of the petitioner after making enquiry regarding his antecedents, sympathetic action would be required to be taken. However, again the prayer of the petitioner for grant of licence has been cancelled on the ground of lack of any evidence regarding threat perception upon him.

From perusal of the impugned order, it appears that the Licensing Authority has put a passage from some guidelines of the Central Government stating that *"Proliferation of arms and ammunitions in the country disrupt the social order and development. The proliferation of arms, whether licensed or illegal vitiates the 'Law and Order' situation. Holding of sophisticated arms by the conflicting parties directly contributes towards lethality of violent acts. Therefore, in principle, proliferation of arms needs to be curbed."*

However, a second ground has been taken again for rejection of licence that petitioner has not been able to produce specific evidence regarding threat perception and also he does not have any quarrel or any altercation with anybody.

The aforesaid issues are no longer *res integra* as this Court in ***Manish Kumar v. State of Bihar and other analogous cases (A.I.R. 2016 Patna 9)*** held that lack of specific evidence regarding threat perception does not form a ground for rejection of licence under Section 14 of the Arms Act, 1959. That apart, if the petitioner is not a conflicting party in any case then he has to be considered for grant of licence even in the background of the guidelines which has been quoted in the impugned order. Apart from the above, the Licensing Authority has clearly skipped to consider the “Family Heirloom Policy” contained in same letter circulated to all the Secretaries of Department of Home of all the States by the Ministry of Home Affairs.

Accordingly, this writ application succeeds. The order dated 08.08.2013 as contained in Annexure 5 is quashed and set aside. The matter is remitted back to the Licensing Authority for fresh consideration on its own merit in accordance with law expeditiously preferably within a period of three months from the date of receipt/ production of a copy of this order. While doing so,

it would be obligatory to follow the decision of this Court in *Manish Kumar (supra)* as well as Family Heirloom Policy of the Central Government.

(Dr. Ravi Ranjan, J.)

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