

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11151 of 2016

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Narendra Kumar Tiwari son of Srinath Tiwari Resident of Village- Nizampur, P.S.-
Naubatpur, Dist- Patna.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The Officer-in-charge, Naubatpur Police Station, District- Patna.

.... Respondents

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Appearance :

For the Petitioners : M/s Ashok Kumar, and
Ram Prawesh kumar, Advocates
For the Respondents : Mr. Anil Kumar Singh, GP 26

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-12-2016

I.A. No. 9774 of 2016

This interlocutory application has been filed by the petitioner for amendment in writ application by addition of relief mentioned in paragraph no. 1(i) as stated in paragraph no. 1 thereof. The petitioner now wants quashing of the order dated 2.4.2013, as contained in Annexure 5, passed by respondent no. 2 by which his application for grant of arms licence was rejected.

In view of the fact that it transpires from the order dated 18.1.2016 that though there was rejection of the case of the petitioner but he claims that the earlier order, as aforesaid, was



never communicated to him, he is permitted to assail the aforesaid order.

Accordingly, this interlocutory application is allowed. The relief mentioned in paragraph 1 (i) and the statements made with respect to the aforesaid relief in the interlocutory application would form part of the writ application.

C.W.J.C. No. 11151 of 2016

It appears from the order dated 2.4.2013 that the rejection was merely on the ground that no specific evidence could be produced by the petitioner showing threat perception upon him.

The impugned order as contained in Annexure 4, which is a subsequent order dated 18.1.2016 passed by the licensing authority after direction of this Court contained in Annexure 3 to dispose of the application vide in the year 2010, it again appears that the grounds are more or less the same. It is recorded that, since order of rejection was earlier passed, there would be no reason to deviate from it.

In my view, both the orders are not sustainable in law having been rejected on the sole ground that the petitioner has not been able to produce specific evidence regarding any threat perception. It is also stated in Annexure 4 that the Officer-in-Charge



has recommended his case though the petitioner is merely a farmer having income of Rs. 1,20,000/-. No specific reason has been recorded for such recommendation and the Superintendent of Police has merely forwarded such recommendation and has not made his own recommendation.

In my view, this ground is also not sustainable in the eye of law for the reason that if there has been any lapse on the part of the Officer-in-Charge of the concerned Police Station, the petitioner cannot be put at fault. Thus, it was open to the licensing authority to seek specific report from the Officer - in - Charge which has not been done in the present case. So far the recommendation by Superintendent of Police is concerned, Section 13(2) of the Arms Act, 1959 lays down in clear terms that it is the Officer-in-Charge who has to send his recommendation and not the Superintendent of Police. Such recommendations are merely being sent through the Superintendent of Police. However, if the licensing authority was of the view that this matter requires any inquiry from the Superintendent of Police and his recommendation either for rejection or for grant is necessarily required, then he could have requested the Superintendent of Police for sending such specific recommendation which has again not been done by him.



Accordingly, in my considered view, both the orders contained in Annexure 4 and 5 are not at all sustainable in law, as such, and 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 four months from the date of receipt/production of a copy of this order. While doing so he would be obliged to peruse and consider the decision rendered by this Court in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]**.

In the result, this writ petition stands allowed.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2017
Transmission Date	NA

