

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13963 of 2016

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Manendra Dubey @ Manender Dubey Son of Kritya Nand Dubey
Resident of Village- Baraki Basauli, P.S.- Buxar (T), District- Buxar,
At present Sugar Mill Buxar, District- Buxar. Petitioner.

Versus

1. The State of Bihar through the Secretary, Home Department, Govt. of Bihar.
2. District Magistrate, Buxar.
3. The Superintendent of Police, Buxar.
4. The Sub-Divisional Officer, Buxar.
5. The Officer-in-Charge, P.S.- Buxar (T), District- Buxar.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Damodar Prasad Tiwary, Adv.
For the Respondents: Mr. Md .Nashrul Hoda Khan-SC1
: Ms. Babita Kumari, AC to SC-1.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-11-2016

Heard learned counsel for the petitioner and the
State.

The petitioner is aggrieved by the order dated
23.02.2016 passed by the District Magistrate, Buxar in Arms
Case No. 211 of 2015, as contained in Annexure-4, by which his
request for grant of licence for DBBL under Family Heirloom
Policy has been refused on the ground of lack of specific
evidence regarding threat perception.

The licensing authority has referred a letter dated
13.04.2010 of the Home Ministry, Government of India and has
stated that according to such letter unless there is



recommendation by police authorities that the petitioner has been threatened by somebody, the licence cannot be granted. However, relevant passage has not been quoted.

The aforesaid letter has already been considered by this Court in **Manish Kumar vs. State of Bihar and other analogous cases [AIR 2016 Patna 9]** and held that such letter only recommends that a person who is under threat should be granted licence but it does not oust others otherwise the competency of the authority for issuing of such letter guiding the licensing authority would itself be in question. However, the licensing authority forgot to take notice of that part of the same letter under which guidance has been given for grant of licence under Family Heirloom Policy.

It is stated in the impugned order itself that the petitioner's father is holding DBBL Gun under valid licence and, since he has become old, now he wants that the gun should be transferred in the name of the petitioner. Therefore, the petitioner has applied for grant of arms licence.

In my view, if the petitioner is otherwise unfit to not hold the licence, such refusal would be bad.

So far threat perception is concerned, that aspect has been discussed and considered in detail in **Manish Kumar (Supra)** holding that threat perception does not mean that a



person, to qualify himself to get a firearm licence, would have to face actual overt act rather merely apprehension of the same would be enough. That apart, it has further been held that the lack of evidence regarding specific threat perception does not form a ground for refusal of licence under Section 14 of the Arms Act, 1959.

Accordingly, this application succeeds. The impugned order dated 23.02.2016, as contained in Annexure-4, is quashed and set aside. The matter is remitted back to the licensing authority to take a fresh decision in the matter in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

While doing so, he would be obliged to consider the aforesaid discussion and observation made by this Court as also the decision of this Court rendered in Manish Kumar (Supra).

Accordingly, this writ petition stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2017
Transmission Date	NA

