

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6155 of 2014

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Santosh Kumar Son Of Shri Vijay Singh Resident Of Village - Kubri, Police
Station - Karpi, District - Arwal

.... Petitioner

Versus

1. The State Of Bihar
2. Commissioner, Magadh Division, Gaya
3. District Magistrate, Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Raj Shekhar, Advocate

For the State : Mr. Sumant Kumar Singh, A.C. to G.A. 3

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 03.01.2013 passed by the District Magistrate who happens to be the Licensing Authority under the Arms Act, 1959 (hereinafter referred to as “the Act”) by which he has rejected the application for grant of arms licence. Petitioner’s appeal has been rejected on the ground of limitation though a petition for condoning the delay was also filed by the petitioner stating that the petitioner never received the copy of the order dated 03.01.2013. It is contended that he came to know about the same only on 07.07.2013. Thereafter, he applied for grant of certified copy of the order and after getting it on 21.07.2013, the appeal was filed. The appellate authority has stated that the petitioner



himself has filed requisites for grant of certified copy of the order after six months, which shows negligence on his part. However, before coming to that finding, it does not appear that he had examined the records for the purpose of satisfying himself as to whether there was any communication to the petitioner regarding rejection of his application or not.

Be that as it may, the order of the Licensing Authority itself appears to be based on non-est ground inasmuch as the rejection is on two grounds. First ground is that it does not appear from the police report that the petitioner has received any threat from any extremist organizations or noted criminal etc. and secondly, that the petitioner's income is only rupees one lakh and his occupation is agriculture, therefore, it is not believable that the petitioner can purchase a firearm. Both the grounds are either in teeth of a decision of this Court or against provision of relevant statute itself. This Court in **Manish Kumar Vrs. State of Bihar and other analogous cases [AIR 2016 Patna 9]** has held that lack of specific evidence regarding any threat perception does not form a ground for refusal of arms licence under Section 13 of the Act. At the same time, sub-Section (2) of Section 14 lays down in clear terms that the Licensing Authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

That being the situation, in my view, the order impugned passed by the Licensing Authority is not sustainable at all and, accordingly, the same is quashed and set aside. The matter is remitted back to it for fresh consideration 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.

(Dr. Ravi Ranjan, J)

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