

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6193 of 2016

=====

Rabindra Kumar Son of Late Shyam Sundar Barnwal At- Surya Automobiles (Hero Hond Show-room), Banka Road, Katoria, P.O. & P.S.- Katoria, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Banka.
3. Divisional Commissioner, Bhagalpur Division, Bhagalpur.
4. Superintendent of Police, Banka.
5. Additional District Magistrate (Arms), Banka.
6. District Arms Magistrate, Banka.

.... Respondents

=====

Appearance :

For the Petitioner : Ms Manisha Pandey, Advocate
Ms Shweta Pandey, Advocate
For the State : Mr. DR. A.K. U PADHYAYA, SC20
Mr. Anurag Saurav, JC to SC 20

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-06-2016

Heard the parties.

The petitioner is aggrieved by the order dated 11.03.2016 passed by the District Magistrate-cum-Licensing Authority, Banka, contained in Annexure 12, by which he has rejected the application of the petitioner for grant of licence for N.P. bore pistol on the ground that the Superintendent of Police has reported that there are eight licensees within 8 km circumference of the area and also there is no specific evidence regarding threat perception upon the petitioner.

It is contended on behalf of the petitioner that by the



earlier order contained in Annexure 9, this Court had directed the licensing authority to take a decision in the case of the petitioner in accordance with law and also considering the ratio decided in **Manish Kumar v. State of Bihar and other and other analogous cases(2015(4) Patna Law Journal Reports 212)** but the licensing authority has passed the order impugned without considering the aforesaid decision. The petitioner also claims that the Superintendent of Police has recommended the case of the petitioner for grant of arms licence, as would be evident from the affidavit filed by him appending Annexure H.

However, by filing a show-cause affidavit the District Magistrate, Banka, has tendered an unconditional apology and explained the circumstances under which the order was passed and stated that he would reconsider the matter.

In view of such statement made by the District Magistrate-cum-Licensing Authority, the issue of violation of the Court's direction is not required to be dealt with further. So far the impugned order is concerned, in my considered opinion, the same is not at all sustainable in law.

This Court in **Manish Kumar(supra)** has also dealt



with the guidelines of the Government of India. In my view, the licensing authority is creature of the Statute, namely, Arms Act, 1959 and he has to take a decision without being prejudiced by any order passed by the higher authority unless there is such provision in the concerned Statute. This Court has already held in the aforesaid case that lack of specific evidence regarding threat perception cannot be a ground for refusal of arms licence. Further, since the petitioner has already been granted a licence for DBBL gun, he must have been granted licence by the licensing authority after due consideration. The petitioner claims that extortion money was demanded from him for which a Sanha was lodged by him.

Apart from the above, section 3(2) of the Arms Act lays down in clear terms that a person can have multiple arms licences up to a maximum of three, therefore, the licensing authority cannot oust a person from seeking another licence in view of the aforesaid provisions on such grounds.

Accordingly, the impugned order contained in Annexure 12 is quashed and set aside and the matter is remitted to the District Magistrate-cum-Licensing Authority, Banka(respondent no. 2) to consider the matter of the petitioner on its own merit and in accordance with law within

a period of three months from the receipt/production of a copy of this order by passing a reasoned and speaking order.

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

(Dr. Ravi Ranjan, J)

SC/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2016
Transmission Date	NA