

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9083 of 2016

=====

Mahtab Alam, son of Md. Wasi, Resident of Mohalla- Bihari Saw Lane, Ashok Raj Path, P.S.- Pirbahore, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna
2. The Divisional Commissioner, Patna Division, Patna
3. The District Magistrate, Patna
4. The Arms Magistrate, Patna Collectorate, Patna

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Kumar Rajeev, Advocate

For the Respondent/s : Mr. Rajesh Kumar, GP-19

Mr. Ajit Kumar, AC to G.P.-19

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-07-2016

Heard parties.

The petitioner seeks quashing of the order dated 4.02.2016 passed by the District Magistrate-cum-Licensing Authority, Patna by which his application for grant of licence for N.P. Bore revolver/pistol has been rejected. The order has been appended as Annexure-3.

It is contended on behalf of the petitioner that from perusal of the impugned order, it would appear that refusal is mainly on the ground that he has not been able to produce any evidence regarding threat perception.

This issue is no longer *res-integra* as the same has already been considered and decided by this Court in ***Manish Kumar Vs. The State of Bihar and Ors. reported in 2015 (4)***

PLJR 212 holding that non-production of any evidence regarding specific threat perception upon the applicant cannot form a ground for refusal of arms licence under Section 14 of the Arms Act, 1959.

Learned counsel appearing for the State submits that there is a provision of statutory appeal under Section 18 of the Arms Act, 1959 available to the petitioner against the aforesaid order, therefore, the petitioner should be relegated to the appellate authority. The aforesaid submission made on behalf of the State is noted only to be rejected inasmuch as the issue concerned already having been decided by this Court, it would not at all be proper now to relegate the petitioner to the appellate authority.

In the impugned order, it has also been stated that Senior Superintendent of Police, Patna has sent the application of the petitioner without his recommendation and so far Additional Superintendent of Police is concerned, he has also forwarded it without any recommendation. The Officer-in-charge of Pirbahore Police Station has stated that the petitioner is a Contractor, however, in the column regarding special threat perception, he has said 'No' but he has recommended for grant of arms licence.

In my view, the aforesaid ground for refusal is also not tenable. Section 13 (2) of the Arms Act mandates that a Licensing Authority shall call for a report from the Officer-in-charge of the nearest Police Station on the application for grant of licence but it is not required under such provision that there should be

recommendation of the Senior Superintendent of Police, Assistant Superintendent of Police, Deputy Superintendent of Police etc. Therefore, it appears that the recommendation of the Officer-in-charge has merely been forwarded by the Senior Superintendent of Police, however, in case the licensing authority needed some enquiry by the Superintendent of Police also then he could well have sought that by making such request but he does not appear to have done that. Be that as it may, the petitioner cannot be faulted with for such action as has been taken by the authorities.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure-3 is quashed and set aside. The matter is remitted back to the licensing authority for taking 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 considering the observations made in this order as well as the decision of this Court rendered in *Manish Kumar Vs. The State of Bihar and Ors. [2015 (4) PLJR 212.*

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	8.07.2016
Transmission Date	N.A.