

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12410 of 2016

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Ravi Kumar Son of Late Sri Birendra Prasad Resident of Belwarganj, Police Station
- Alamganj, Town & District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Patna.
2. Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, District Patna.
4. Senior Superintendent of Police, Patna.
5. Station House Officer, Alamganj P.S., Patna City, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Ms. Manisha Pandey, Advocate
Ms. Shweta Pandey, Advocate
For the Respondent/s : Mr. Nadeem Seraj- GP5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-02-2017

I.A.No.9752 of 2016

The writ petition was filed for a direction to the licensing authority to take a final decision in the matter. However, in the meantime, an order dated 10.12.2016 was passed by the licensing authority again rejecting the application of the petitioner on the ground that granting many licences may adversely affect the public peace and safety.

In the facts and circumstances, I.A. No.9752 of 2016 is allowed. The petitioner is permitted to assail the order dated 10.12.2016 (Annexure-A appended with the interlocutory application).



CWJC No.12410 of 2016

Counter affidavit has already been filed by the State. Annexure-G has been appended which is a letter of Sub-Divisional Officer, Patna City written to the District Arms Magistrate, Patna. He has stated that for maintaining public peace and safety, he is forwarding the matter without recommending it.

However, in my view, such bald statement on his behalf was totally unwarranted as the petitioner is already having a firearm's licence and he has not used till date injuring or endangering any person. Therefore, it cannot be held that another gun in his hand would be detrimental to the public peace and safety. Thus the view adopted by the Sub-Divisional Officer, Patna City was totally unwarranted.

This Court has held in *Deepak Kumar Vs. The State of Bihar rendered in CWJC No.13391 of 2014* that there is no presumption that a gun of permitted bore in the hand of a lawful citizen would be detrimental for the public peace and safety. The legislature has made a provision under Section 3 (2) of the Arms Act that a person may carry maximum up to three firearms.

The Officer-in-charge of the concerned police station has already recommended for grant of firearm licence stating that own brother of the petitioner was killed by the miscreants.



In such a situation, in my view, the licensing authority ought not to have rejected the application of the petitioner on such flimsy ground.

Accordingly, the impugned order dated 10.12.2016 (Annexure-A appended with the interlocutory application) is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision.

Since the petitioner also seeks his remedy under Family Heirloom Policy, the licensing authority would be required to consider Rule 25 of the Arms Rules, 2016.

It is expected that the whole exercise would be completed within a period of three months from the date of receipt/production of a copy of this order.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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