

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17313 of 2016

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Ritesh Kumar, S/o - Sri Chandra Bhanu Mehta, Resident of Tulsi
Mandi, P.S. - Alamganj, District & Town Patna. Petitioner.

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
 2. District Magistrate, Patna.
 3. Divisional Commissioner, Patna.
 4. District Arms Magistrate, Patna.
 5. Additional District Magistrate (Arms), Patna.
 6. Sr. Superintendent of Police, Patna.
 7. Sub-Divisional Magistrate, Patna City. Respondents.
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Appearance :

For the Petitioner : Ms. Manisha Pandey, Adv.
: Ms. Shweta Pandey, Adv.

For the Respondents: Mr. Apurva Kumar, AC to GA4.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated
19.09.2016 passed by the Licensing Authority-cum-District
Magistrate, Patna, as contained in Annexure-11 by which he has
refused fire arm's licence to the petitioner.

This is the second time such order has been passed.
First order was already set aside vide Annexure-8 and the matter
was remitted back. Thereafter, the present order of rejection has
been passed.

It appears from perusal of the order that the same has
been passed on the ground that the Sub-divisional Officer, Patna



City and Senior Superintendent of Police have not recommended the case of the petitioner. It has also been stated that unnecessary granting fire arm licence would be detrimental for public peace and security.

This Court is unable to understand the grounds taken for rejection. It is manifest from Section 13(2) of the Arms Act that, on receipt of application of grant of licence, the Licensing Authority is required to call for the report of the Officer In-charge of the nearest police station and, thereafter, he is required to consider the same. There is no provision under the Act or Rule that any recommendation of the Sub-divisional Officer or the Senior Superintendent of Police is required. However, if the Licensing Authority wanted to get some inquiry done by the Senior Superintendent of Police he could have recommended for that and sought a report from him. It appears that the recommendation of the Officer In-charge has been forwarded to the Licensing Authority through the Senior Superintendent of Police. So far the assertion that the unnecessary grant of fire arm licence would be detrimental to the public peace and security is concerned, it is neither a policy of the State nor the stand embedded in the Arms Act and the Rules that on such vague ground such licence can be refused. If it is found that a grant of licence would be detrimental for the public peace and tranquility



then specific reason would be to be assigned negating his/her conduct due to which such impression has been formed by the Licensing Authority. In the case in hand no such issue is involved rather it is claimed by the petitioner that the Officer In-charge has recommended his case which is apparent from Annexure-10 stating that petitioner is a business man and his conduct is good and as such he requires fire arm licence for his personal safety.

In my view, such an order cannot be sustained at all in law. The order dated 19.09.2016 passed by the Licensing Authority-cum-District Magistrate, Patna, as contained in Annexure-11 is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision in accordance with law considering the observations made by this Court in the present case as well as the earlier decision contained in Annexure-8 within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, this writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2017
Transmission Date	NA

