

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17687 of 2016

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Anoop Kumar Agarawal @ Anoop Agarawal S/o Sri Lal Chand
Agarawal Resident of Mohalla- Bajrangpuri, Near Gandhi Setu Check-
Post, P.S. Alamganj, District & Town-Patna. Petitioner.

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar
 2. Divisional Commissioner, Patna Division, Patna
 3. The District Magistrate, Patna
 4. The Senior Superintendent of Police , Patna
 5. Additional District Magistrate, (Arms), Patna
 6. District Arms Magistrate, Patna
 7. S.H.O. Alamganj Police Station, Patna. Respondents.
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Appearance :

For the Petitioner : Mr. Deepak Kumar, Adv.
: Ms. Manisha Pandey, Adv.
: Ms. Shweta Pandey, Adv.

For the Respondents: Mr. Dharendra Kumar Singh, GP-5.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 30-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated
09.08.2016 passed by the Licensing Authority-cum-District
Magistrate, Patna, as contained in Annexure-6 by which he has
rejected the application for grant of fire arm's licence filed by
the petitioner.

This is the second time such order has been passed.
First order was passed on 25.01.2016 as stated in Annexure-4.
From perusal of the impugned order, it appears that the same was
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 shall call for a report from the Officer-In-charge of the nearest police station and, thereafter, he is required to consider the case. There is no provision under the Act or Rule that there could be any recommendation by the Sub-divisional Officer or the Senior Superintendent of Police. 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. Another ground for rejection is that there is no threat perception in the present case which also not tenable in view of the decision of this Court rendered in **C.W.J.C. No. 18535 of 2011 (Manish Kumar v. The State of Bihar and others)**. It further appears that the recommendation of the Officer In-charge was forwarded to the Licensing Authority by 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, such policy does not stand embedded in the Arms Act and the Rules. On such vague ground licence cannot be refused. If it is found



that a grant of licence would be detrimental for the public peace and tranquility then specific reason would have to be assigned narrating the conduct of the applicant due to which such impression is being 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. It is stated that the 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 09.08.2016 passed by the Licensing Authority-cum-District Magistrate, Patna, as contained in Annexure-6 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-4 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	02.05.2017
Transmission Date	NA

