

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15873 of 2016

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Pramod Kumar S/o Sri Satendra Kumar Singh, resident of Rajapur, Mainpura,
Opposite Murti Makan P.O. + P.S. Patliputra, District- Patna.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : M/s. Manisha Pandey,
Shweta Pandey, Advocates
For the State : Mr. H.S. Sundaram, A.C. to S.C. 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 30-01-2017

Heard parties.

Petitioner seeks quashing of the order dated 02.03.2016, as
contained in Annexure 7, passed by the District Magistrate-cum-
Licensing Authority, Patna by which his application for grant of
licence of N.P. bore rifle has been rejected.

It was first done vide Annexure 3 dated 07.09.2013. The
writ petitioner assailed that order by filing C.W.J.C. No.22758 of
2013 which was allowed, the impugned order was set aside and the
matter was remitted back to the Licensing Authority for fresh
consideration. It appears from Annexure 3 that the first order of



rejection was due to the fact that officer-in-charge, Patliputra has stated in his reply that petitioner is a businessman and the miscreants have fired upon him for which Patliputra P.S. Case No.110/98 was lodged and the petitioner was granted licence for N.P. bore revolver. However, it was rejected saying that there is no specific recommendation regarding any threat perception. This Court vide Annexure 4 dated 15.09.2015 holding that lack of production of specific evidence regarding thereat perception cannot form a ground for refusal of licence under Section 14 of the Arms Act, 1959 and also holding that in view of the provision contained in Section 3(2) of the Arms Act, 1959 a person can possess maximum of three numbers of firearms and in a decision dated 26.07.2011 passed in C.W.J.C. No.16915 of 2008, it was held that refusal of licence on the ground of already having been granted licence for one N.P. Bore category rejection of licence would not be sustainable in eye of law. This Court had also opined that there is no other ground available for rejection except the two grounds which were relied by the authority on earlier also and, those grounds having not been found tenable, the petitioner would be fit for grant of licence unless there is subsequent development after passing of the order dated 07.09.2013. Still on the self-same ground, the Licensing Authority has rejected the application of the petitioner. Again there is refusal on the ground that the



petitioner is already having licenced weapon and there is no occasion for grant of licence for another. This Court had already observed that unless subsequent ground is available for cancellation of the licence, the petitioner is fit for grant of licence, still the Licensing Authority has refused the licence.

Upon a question was asked as to why such order should not be declared to be contumacious in nature, explanation has been given by the Licensing Authority that the grant of three licence is not mandatory and grant further licence to the petitioner would be detrimental for the public peace and tranquility. However, neither in the order nor in the counter affidavit, it stands stated as to how grant of licence to the petitioner would be detrimental for public peace. If grant of licence to the petitioner is detrimental to the public peace then no licence at all could have been granted in his favour. Once the authority has granted a licence then it would not be open for him to take such stand that grant of further licence would be detrimental for public peace unless there are any materials available on record. No such material has been discussed by the Licensing Authority. However, this court is refraining itself to decide the issue as to whether the order is contemptuous in nature or not in view of the explanation submitted by him.

Accordingly, the order impugned being not at all



sustainable in eye of law is quashed and set aside. Let the Licensing Authority take a fresh decision but it is reiterated that the grounds which were taken for rejection of the application on earlier occasion and which have not been found tenable, cannot again be taken for refusal of licence. Paragarph nos.9 and 15 of the police report, as contained in Annexure A, should also be considered by the Licensing Authority at the time of consideration of the petitioner's case.

It is made clear that the entire exercise should be completed within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.03.2017
Transmission Date	NA

