

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 15891 of 2016

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Abhay Kumar S/o-Baleshwar Prasad Singh R/o Village-Bari, P.O.
Siyadih, P.S.-Charpokhari, District-Bhojpur.

.... Petitioner.

Versus

1. The State of Bihar, through Chief Secretary Govt. of Bihar, Home Department.
2. The Commissioner, Patna, Commissionery, Patna.
3. The District Magistrate, Bhojpur.
4. The Superintendent of Police, Bhojpur.
5. The Officer-In-Charge, Charpokhari, District-Bhojpur.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Ashutosh Tripathy, Adv.

For the Respondents: Mr. Md. Irshad, AC to SC 1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 23-01-2017

I.A. No. 56 of 2017.

This application has been filed for amendment in the writ petition by introduction of the relief mention in paragraph 1B.

It is contended that during the pendency of the writ petition final order has been passed by the Licensing Authority-cum-District Magistrate, Bhojpur at Ara rejecting the claim of the petitioner for grant of firearm licence.

Accordingly, this Interlocutory Application is allowed.

Petitioner is permitted to assail Annexure-1 which is



the final order passed by the Licensing Authority-cum-District Magistrate, Bhojpur at Ara.

CWJC No. 15891 of 2016.

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 03.11.2016 passed by the District Magistrate, Bhojpur at Ara, as contained in Annexure-1 to the I.A., by which his request for grant of firearm licence has been refused.

From perusal of the order, it appears that the same has been passed on the ground that the Superintendent of Police, Bhojpur at Ara 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 the report of the Officer In-charge of the nearest police station and, thereafter, he is required to consider that. There is no provision under the Act or Rule that there could be any recommendation by the Superintendent of Police. However, if the Licensing Authority wanted to get some inquiry done by the Superintendent of Police he could have



recommended for that and sought a report from him. Rejection is also on the ground that there is no threat upon the applicant in the present case which is 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 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 does not stand embedded in the Arms Act and the Rules. On that vague ground such 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 be required to be assigned narrating 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 stating that petitioner is an agriculturist and his conduct is good and as such he requires fire arm licence for his personal safety.

In my view, the impugned order is not at all sustainable in the eye of law. As a result, the impugned order of



the District Magistrate, Bhojpur at Ara dated 03.11.2016, as contained in Annexure-1 to the Interlocutory Application is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision in accordance with law 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

