

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18404 of 2008

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Suman Kumar, son of late Bishundhari Singh, resident of village-Chiraura,
P.S. Naubatpur, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna High Court
3. The District Magistrate cum Collector, Patna
4. The District Arms Magistrate, Patna
5. The Senior Superintendent of Police, Patna High Court
6. The Sub-Divisional Officer, Danapur, District-Patna
7. The Dy. Superintendent of Police, Danapur, District-Patna
8. The Circle Officer, Naubatpur, District-Patna
9. The Officer-in-charge of Naubatpur Police Station, District-Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr.Amrendra Kumar I
For the Respondent/s : Mr.Gp12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 10-05-2019

Earlier the petitioner has approached this Court in
C.W.J.C. No. 12104 of 2006 on account of refusal of his gun
license.

2. The Court vide order dated 21.5.2007 set aside the
order refusing gun license and remitted the matter back to the
District Magistrate, Patna to pass fresh order. After the remand,
the District Magistrate once again rejected the application for
grant of arms license. Now the District Magistrate, Patna has
coined new reason for rejection of the claim of the petitioner
for grant of gun license. The order of rejecting gun license is



contained in Annexure-9 dated 10.10.2007.

3. From perusal of the order dated 10.10.2007, the Court finds that the District Magistrate relied upon the police report. The police report highlights the followings :-

(i) The village of the petitioner has criminal history.

(ii) Veteran criminal Raj Kumar Singh who was killed in police encounter was resident of the same village and some of the supporters of Raj Kumar Singh still reside in that village.

(iii) The administration in the past directed deposit of gun of the license to the licensee of the village.

(iv) Despite the petitioner at the time of enquiry was available in the house family members falsely informed that he is not available in the house.

4. Considering the aforesaid, the District Magistrate once again rejected the application for grant of gun license.

5. Learned counsel for the petitioner would submit that for grant of gun license, the licensing authority is required to apply mind in a judicious manner, simply because one of the criminals belongs to the same village who died in police encounter is no ground to refuse the gun license.



6. Learned counsel further submits that earlier direction to deposit the gun of licensee in the village cannot be a ground to refuse the gun license of the petitioner if he is otherwise eligible for grant of gun license. Similarly simply because some of the supporters of Raj Kumar Singh is still residing in the village is again no ground for refusal of gun license. Grant of gun license is not subjective satisfactory grant of license or refusal of gun license should be an objective consideration.

7. The Court finds substance in the submission of the petitioner. In the decision making process, the Collector as licensing authority has to exercise his power in accordance with law. While exercising power, he is required to take into consideration objective materials and his decision is not supposed to be influenced by the subjectivity. The materials taken into consideration by the District Magistrate cannot be considered as objective materials for the purpose of grant of or refusing gun license to the petitioner particularly in view of the fact that there is no finding that petitioner is supporter of Raj Kumar Singh, a veteran criminal who died in police encounter.

8. There is no material that the petitioner is involved in any criminal case or he is threat to law and order.



9. Accordingly, the Court is of the view that the order dated 2.11.2007 passed by the Collector, Patna cannot sustain. It is accordingly quashed.

10. The matter is remitted back to the District Magistrate, Patna to take fresh decision objectively in the light of the 2016 rules and the judgment of the Division Bench reported in **2019(1) PLJR 644**.

11. Necessary decision in this regard may be taken by the District Magistrate, Patna independently without being influenced by the previous decision within a maximum period of four months from the date of receipt/production of a copy of this order.

13. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.05.2019
Transmission Date	

