

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9596 of 2019

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Shyamal Kumar, Son of Late Ram Sevak Singh, Resident of Mohalla- Qur.
no. 99, Type-I, P & T Colony, Kidwaipuri, Patna, P.S. Kotwali Patna at
present posted at Chief General Manager, Telcom, Bihar Circle (B.S.N.L.),
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Patna.
3. The District Superintendent of Police, Patna.
4. The Officer-in-charge of Kotwali Police Station, Patna.

.. ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Birendra Kumar Singh, Advocate
		Mr. Ravi Shankar Pathak, Advocate
For the Respondent/s	:	Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 29-04-2019 Heard learned counsel for the petitioner and the State.

2. The petitioner has earlier moved this Court in
C.W.J.C. No. 22135 of 2013 and vide order dated 08.03.2016
the writ application was allowed and the order as contained in
Annexure-1 was quashed and the District Magistrate-cum-
Licensing Authority, Patna was asked to take fresh decision in
accordance with law after seeking necessary report under the
Arms Act.

3. After the order of the writ Court in similar matter,
the application for grant of Arms licence was rejected vide order
dated 07.08.2017. Thereafter the petitioner has filed contempt



application. Considering the limited scope of contempt, the Court declined to proceed in the matter and directed the petitioner to approach the appropriate authority. Accordingly, the present writ application has been filed.

4. Once the writ Court has allowed the writ application of the petitioner and directed the District Magistrate, Patna to decide the case in accordance with law then in that situation the District Magistrate was required to apply his mind in terms of the observations made by the writ Court and not to reject the same on the ground of lack of threat perception.

5. Learned counsel for the petitioner submits that threat perception may be the relevant factor, but it cannot be a solitary ground to refuse the Arms licence. The District Magistrate, Patna was vested jurisdiction under the Arms Act to exercise power in a judicial manner and not to pass any arbitrary order.

6. From perusal of order as contained in Annexure-1, it appears that the District Magistrate has not applied his judicial mind, particularly, after the order of remand by the writ Court, the District Magistrate in the instant case rejected the claim on the same ground of lack of threat perception. There is no material that the petitioner is otherwise not eligible for grant of



arms licence. The authorities exercising extraordinary power in furtherance of the Act cannot be allowed to defeat the objective of the scheme of the Act. Accordingly, order dated 07.08.2017 (Annexure-1) is quashed and the matter is remitted to the District Magistrate-cum-Licensing Authority, Patna to take decision afresh, particularly, in terms of Rule 2016 and the judgment of the Division Bench of this Court reported in 2019(1) PLJR 664.

7. Fresh decision in this regard must be taken by the District Magistrate-cum-Licensing Authority, Patna within a period of 60 days after the general election. It is made clear that the District Magistrate-cum-Licensing Authority, Patna cannot reject the Arms licence on the solitary ground of lack of threat perception.

8. With the aforesaid observation, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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