

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10321 of 2018

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Rajnish Kumar, Son of Sri Kumar Jagdamba Prasad Singh, resident of MIG-57, Chankyapuri Colony, P.S.- Rampur, District- Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The Sub- Divisional Officer, Gaya.
6. The Station House Officer, Rampur, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar
For the Respondent/s : Mr. P.K.Verma-Aag3

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 08-05-2019 Heard learned counsel for the petitioner and the State.

2. The application for grant of arms license was rejected by the licensing authority on the ground that there was no material as to the threat perception. The matter was taken to the Appellate Authority i.e. the Commissioner, Magadh Division, Gaya, who also dismissed the appeal upholding the reason for refusal of arms licence.

3. The petitioner is aggrieved by the order passed by the District Magistrate, Gaya as contained in Annexure-1 and the order of the Commissioner, as contained in Annexure-2.

4. Different Benches of this Court have repeatedly



held out that lack of threat perception is no ground to refuse grant of arms license. Threat perception may be relevant factor, but that cannot be a solitary ground for grant of license or refusal of arms license. It is matter of common knowledge that every District Magistrate in the State of Bihar used to refuse arms license only on the ground of lack of threat perception. We are repeatedly quashing such order of refusal of grant of arms license and remitting back after quashing such reason for rejecting the arms license. The authorities have been vested with the power to grant arms license as a trustee and not as imperium in imperio and vested with arbitrary power to grant of arms license or to refuse grant of arms license as per their sweet will. The District Magistrate exercising the power of quasi judicial authority is required to pass order on objective consideration.

5. Considering the arbitrariness and subjectivity in the decision making process, the order as contained in Annexure-1 cannot sustain. It is accordingly quashed. The order of the Appellate Authority also suffering from the same vice of non-application of judicious mind in the decision making process and as such the same cannot sustained. Accordingly, the order as contained in Annexure-2 is also quashed. The matter is remitted to the District Magistrate, Gaya to take fresh decision. The



District Magistrate is required to pass fresh order in the light of the judgment of the Division Bench of this Court in the case of **State of Bihar & Ors. Vs. Deepak Kumar**, reported in **2019 (1) PLJR 664** and 2016 Rules.

6. Fresh decision in this regard must be taken by the District Magistrate, Gaya within a maximum period of four months after the general election.

7. With the aforesaid, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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