

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17063 of 2016

=====

Jitendra Kumar S/o Sri Nageshwar Sharma resident of Village- Enayatpur
Prabodhi, P.S.- Sarai, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. District Magistrate, Vaishali.
3. Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. Additional District Magistrate Arms, Vaishali.
5. District Arms Magistrate, Vaishali.
6. Sub-Divisional Officer, Sadar, Hajipur.
7. Superintendent of Police, Vaishali.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Deepak Kumar
For the Respondent/s : Mr. Md. Nadim Seraj- Gp5

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 01-05-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

The instant writ application is telling a tale of total
non-application of mind by the Licensing Authority for grant of
Arms License on the ground of lack of threat perception.

After the order of the licensing authority the matter
was taken to the appellate authority namely the Commissioner,
Tirhut Division, Muzaffarpur vide Annexure-5. The appeal was
allowed and the matter was remitted back for fresh
consideration before the Collector, Vaishali. The fresh order
passed by the District Magistrate, Vaishali indicates that during



the course of hearing, it transpired that there is no evidence of threat perception.

The threat perception may be relevant factor for grant of arms license but it cannot be a solitary ground for denial of arms license by the Licensing Authority. The Court noticed that the District Magistrate, Vaishali has rejected the application for grant of Arms License on account of lack of threat perception. This issue was decided by the Division Bench reported in ***State of Bihar and Ors. Vs. Deepak Kumar (LPA No. 758 of 2018) reported in 2019(1) PLJR 664*** and 2016 Rules also provides guidelines how to grant license or refuse license but the District Magistrate, Vaishali like other Collector of District in the State of Bihar are practicing one and the same parameters for grant or refuse license on threat perception which is indicative of subjective decision and not objective application of mind in the light of the 2016 Rules and the judgment of the Division Bench reported in Division Bench reported in ***State of Bihar and Ors. Vs. Deepak Kumar (LPA No. 758 of 2018) reported in 2019(1) PLJR 664.***

Accordingly, the application is allowed and the order contained in Annexure-6 is quashed and the matter is remitted back to the District Magistrate, Hajipur, Vaishali to consider the



grant of arms license afresh in the light of the 2016 Rules and the judgment of the Division Bench (Supra) and necessary decision afresh in this regard may be taken by the District Magistrate, Vaishali within a period of 90 days after the general election.

With the aforesaid, the present writ application stands disposed of.

The original file summoned in the instant case kept with the government pleader is directed to be returned to the District Magistrate, Vaishali.

(Anil Kumar Upadhyay, J)

mdrashid/-

U			
---	--	--	--

