

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11497 of 2012

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Shabbir Ahmed Son of Late Abdul Bari Permanent Resident Of Village -
Mauna, P.S.- Nasirganj, District - Rohtas At Sasaram

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Home Department, Government Of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Rohtas At Sasaram

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Chandra Mauli Prasad Singh
For the Respondent/s : Mr.Arvind Kumar Sinha, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 09-04-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Earlier the petitioner's application for grant of
license was rejected on 5.8.2006 (vide Annexure-1).

3. The petitioner preferred appeal before the
Commissioner, Patna Division, Patna. The Commissioner, Patna
Division, Patna vide order dated 11.11.2009 allowed the appeal
and set aside the order of the Collector and remitted the matter
back for decision afresh. After the order of the Commissioner
dated 11.11.2009, the Collector has passed order once again
rejecting the application for grant of arms license to the
petitioner.

4. Learned counsel appearing on behalf of the



petitioner submits that petitioner's father was a police personnel and he was arms license no. 172/1959 and on the basis of the same double barrel gun was purchased by the father of the petitioner .

5. Learned counsel submits that after the death of the father, the petitioner has deposited the gun with Sharma Gun House, Dehri On-Sone, Bihar and thereafter he filed application for grant of arms license but his claim was rejected on the ground of lack of threat perception (vide Annexure-1).

6. The Commissioner while allowing the appeal has noted that the District Magistrate's order does not assess threat perception of the petitioner. After remand, the Collector passed fresh order. He has referred the letter of the Home Ministry, Government of India dated 31.3.2010 and held out that the petitioner has not been able to satisfy the existence of threat perception. He has not been able to place any document as to threat of his life and property.

7. The licensing authority under Arms Act has vested with the power to decide the claim for grant of license of the petitioner. The discretion of the Collector is not an absolute decision but as an authority vested with the power to grant or not to grant arms license by exercise such power objectively



and not on subjective satisfaction. The order impugned dated 20.4.2012 on the fact of it indicates that the Collector has proceeded on the basis of his own perception and personal standard as to the eligibility of threat perception.

8. The Court is constrained to hold that after order of the Commissioner, the Collector was required to exercise the power in most judicious and objective manner but the same was not done by the Collector. In addition thereto, threat perception alone is not determined the fact for grant of license.

9. Learned counsel appearing on behalf of the petitioner submits that all authorities in the process of decision making have recommended the case of the petitioner for grant of gun license but that was ignored by the Collector while passing order impugned contained in (Annexure-3).

10. Recently the Division Bench of this Court has occasion to examine the principle relevant for the purpose of granting license. Decision is reported in **2019(1) PLJR 664** additionally in large number of cases this court has deprecated refusal of gun license solely on the ground of lack of threat perception.

11. Unfortunately, even after remand, the Collector has refused to grant license solely on the ground of lack of



objective material/evidence to establish that there exist threat perception.

12. Considering the totality of the facts and circumstances discussed hereinabove that the refusal to grant gun license by the Collector vide Annexure-3 is not judicious and objective consideration by the Collector and as such the order contained in Annexure-3 cannot sustain. The order contained in Annexure-3 is accordingly quashed.

13. Since the matter is pending since 2006, the Collector is hereby directed to take a fresh decision in the light of principle laid down by the Division Bench in the case reported in **2019(1) PLJR 664** at the earliest preferably within a period of 30 days from the date of receipt/production of a copy of this order.

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

(Anil Kumar Upadhyay, J)

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