

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10784 of 2021

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Vijay Kumar Singh S/o Late Ram Briksh singh, Resident of House No. 15,
Manju Bhawan, Durga Ashram Gali, Sheikhpura, P.O. B.V. College, P.S.
Shastrinagar, Patna-800014.

... .. Petitioner/s

Versus

1. The State of Bihar through Divisional Commissioner, Patna Division.
2. The Divisional Commissioner, Patna Division.
3. The District Magistrate, Patna.
4. The Arms Magistrate cum Collector, Patna.
5. The Station House Officer, Shastrinagar Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Siddhartha Prasad, Adv.
Mr. Sunit Kumar, Adv.
Mr. Om Prakash Kumar, Adv.
For the Respondent/s : Mr. Shailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 14-07-2022

1. The present writ petition has been filed for quashing the order dated 13.3.2020, passed by the learned District Magistrate, Patna in Arms Case No. 9-91/2019 whereby and whereunder the District Magistrate cum Collector, Patna has rejected the



claim of the petitioner with regard to grant of arms license.

2. The learned counsel for the petitioner has referred to the report of the SHO, Sri Krishnapuri Police Station, dated 9.12.2019 as also that of the Sub-Inspector of Police, Shastri Nagar Police Station, dated 15.12.2019 to submit that it has been reported by the said two officials that since the petitioner is engaged in the profession of valuation of properties and in that regard, he has to visit various places across the State, he is facing threat to his life and property, hence, arms license can be granted to him. It is further submitted that despite the said recommendation made by the aforesaid two officials vide reports dated 9.12.2019 and 15.12.2019, the Deputy Superintendent of Police, Secretariat Patna, did not find any threat perception qua the petitioner herein. Considering the aforesaid reports, the District Magistrate, Patna, by the impugned order dated 13.3.2020, has rejected the application of the petitioner for grant of arms license on the ground that there is



no reason for grant of arms license to the petitioner herein inasmuch as Rule 12(3)(a) of the Arms Rules, 2016 also do not postulate grant of arms license without any reason.

3. The learned counsel for the petitioner, at this juncture, has referred to Rule 12(3)(a) of the Arms Rules, 2016, which is reproduced hereinbelow:-

“12(3)(a) any person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and/or property; or”

4. The learned counsel for the petitioner has also referred to a judgment reported in 2008(1) PLJR 151 (Amrendra Kumar Singh vs. State of Bihar & Ors.) to submit that it is not necessary that threat perception should be present, so as to warrant grant of arms license to the applicant.

5. The learned counsel for the petitioner has also referred to a judgment rendered by a coordinate Bench of this Court, reported in 2015(4) PLJR 212 (Manish Kumar & Others vs. The State of



Bihar & Ors.), to submit that in absence of any evidence regarding threat perception, grant of arms license cannot be refused. In this connection, it would be apt to reproduce paragraph no. 29 of the said judgment hereinbelow:-

“29. This Court is in agreement with the aforesaid decisions as a conjoint reading of Sections 13 and 14 of the Act does not disclose anywhere that the absence of any evidence regarding threat can form a condition for refusal to grant arms licence. In my considered opinion, the licensing authority cannot apply its discretion in a manner to hold that lack of evidence regarding threat perception would make the applicant unfit for grant of licence under Section 14(1)(b)(i)(3) of the Act. The provision has to be read necessarily as the same is there without substituting or taking away anything therefrom. It clearly lays down that the licence can be refused if the applicant is found unfit for any reason under the Act. However, since none of the provisions of the statute discloses that imminent danger or actual threat perception may form a ground for refusal of licence, it cannot be held that the same may form



a reason declaring the applicant unfit for grant of licence under the Act in view of the provisions contained in Section 14(1)(b)(i)(3)."

6. The learned counsel for the petitioner has next submitted that the aforesaid judgment rendered in the case of Manish Kumar (supra) was challenged in appeal by the State i.e. in LPA 758 of 2018 (The State of Bihar & Ors. vs. Deepak Kumar) as also in another appeal bearing LPA No.459 of 2018 (State of Bihar & Others vs. Manish Kumar) and the learned Division Bench of this Court, by a judgment dated 21.1.2019, has clearly held therein that absence of any specific security threat or imminent danger to an applicant cannot be a ground for rejection of the application of an applicant for grant of arms license inasmuch as, the same would be contrary to the intent of grant of license, as postulated by the Arms Rules, 2016. The learned Division Bench of this Court has also held that a person should not have an actual threat or imminent threat perception but it would suffice



if the applicant is able to persuade the authority to take into consideration the nature of his trade and profession for the purposes of grant of license, which situation has now been taken care of under Rule 12(3)(a) of the Arms Rules, 2016. In this regard, it would be apt to reproduce the relevant portion of the aforesaid judgment dated 21.1.2019 hereinbelow:-

"This is clearly in consonance with Sub-Rule (3)(a) of Rule 12 extracted hereinabove, where the very purpose of the acquisition of arms has to be assessed by the licensing authority on the basis of a police report or on his own assessment. This, therefore, leaves no room for doubt that there is an obligation cast on the licensing authority now to consider these elements as referred to in the aforesaid Rules for either granting or refusing to grant a license and for that the police report and the own assessment of the licensing authority in terms thereof has to be guided in accordance with the 2016 Rules. It appears that the Rule making authority was aware of



such situations that would require an assessment by the officer and, so far as the present case is concerned, the respondent-petitioner had sought the license keeping in view his profession which was disclosed in paragraph-3 of the writ petition as follows :

“3. That the petitioner is a citizen of India and a business man by Profession dealing in gold business and is invoking the Jurisdiction of this Hon'ble High Court in its writ Jurisdiction.”

The order of the District Magistrate, as communicated, does not indicate the existence of any valid reason, but, at the same time, the order in appeal passed by the Commissioner indicates that there was no mention of any specific security threat or danger to the appellant in the police report. Such a ground, in our opinion, would be contrary to the intent of grant of license inasmuch as it is not necessary that a person should have an actual threat or imminent threat perception, but it



would suffice if the applicant is able to persuade the authority to take into consideration the nature of his trade, profession and calling for the purpose of grant of license which situation has now been taken care of under Sub-Rule(3)(a) of Rule 12 of the 2016 Rules. In this view of the matter, the question of grant or refusal of license will have to be revisited by the licensing authority where the licensing authority will have the power to make an assessment as per the aforesaid Rules, keeping in view the police report or such other factors which may be necessary for the said purpose. The Advocate General is, therefore right in his submission to the extent that there cannot be an omnibus declaration in respect of a reason which can also possibly form part of the refusal or grant of license, namely the possibility or probability of any threat or imminent danger to the life or property of an individual. Such factors, in our opinion, are admissible factors, especially in the



light of the 2016 Rules which now take care of the situation.

Accordingly, the impugned judgement of the learned Single Judge, to that extent, would stand modified, subject to the direction of the learned Single Judge to consider the grant of license to the respondent-petitioner in accordance with the 2016 Rules and take a fresh decision in the matter within the time period given therein.

The appeal stands disposed of, subject to above."

7. Thus, the submission of the learned counsel for the petitioner, in nutshell, is that the learned District Magistrate, Patna, in the impugned order dated 13.3.2020, has failed to take into consideration the aforesaid aspect of the matter i.e. nature of the trade and profession of the petitioner, who is an approved and registered valuer empanelled with different Nationalized Banks & is required to travel across the State for valuation of properties and other assets. It is also submitted that the case of the petitioner be



remanded back to the District Magistrate, Patna for reconsideration and the petitioner would make an endeavour to persuade the licensing authority to take into consideration the nature of his trade and profession for the purposes of grant of license.

8. The learned counsel for the Respondent-State submits that the aforesaid aspect of the matter, as argued by the Ld. Counsel for the petitioner has not been taken into consideration by the District Magistrate, Patna, hence the matter can be remanded back for re-consideration.

9. Having heard the learned counsel for the parties and having gone through the materials on record, this Court finds that the impugned order dated 13.3.2020, passed by the District Magistrate, Patna, has not taken into consideration the nature of trade and profession being carried out by the petitioner herein, which as per the aforesaid judgment of the Hon'ble Division Bench rendered in the case of Deepak Kumar (supra), is required to be considered, while considering an application for grant of arms license, hence, the said order dated



13.3.2020 is not sustainable in the eyes of law, thus, is quashed and the case of the petitioner for grant of arms license is remanded back to the District Magistrate, Patna, who shall, after grant of an opportunity of hearing to the petitioner, take appropriate decision afresh within a period of twelve weeks of receipt / production of a copy of this order, in accordance with law and taking into account the provisions contained in the Arms Rules, 2016, as also considering the report of the aforesaid two police officials dated 9.12.2019 and 15.12.2019.

10. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23.7.2022
Transmission Date	NA

