

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10616 of 2018

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Robin Kumar S/o Rabindra Kumar R/o Mohalla Pirmuhani Kavi Raj Path,
P.S. - Gandhi Maidan, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Homes, Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Patna at Patna.
4. The Senior Superintendent of Police, Patna at Patna.
5. The Officer-in-Charge Gandhi Maidan Police Station, District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar Soni, Advocate
	:	Mr. Nilanjan Chatterjee, Advocate
	:	Mr. Sahil Kumar, Advocate
For the Respondent/s	:	Mr.Md. N.H. Khan- SC1
	:	Mr. Harun Quraishi, AC to SC 1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 19-09-2022 Though the present writ petition has been filed for quashing the order dated 10.09.2016, passed by the District Magistrate, Patna, whereby and whereunder, the prayer of the petitioner for grant of arms license has been refused as also for quashing of the appellate order dated 20.02.2018, passed in Arms Appeal no. 171 of 2016, by the court of Divisional Commissioner, Patna, however, it has been pointed out by the learned counsel for the petitioner that the impugned order dated 20.02.2018 is a perfunctory order, inasmuch as, firstly, the same has merely rejected the appeal of the petitioner on the ground



that the Police Authorities have not made recommendation for grant of arms license, which is *de hors* the mandate of the Arms Act,1959 as also the provisions contained in the ***Arms Rule, 2016*** and secondly, the case of the petitioner has not been considered in light of the provisions contained in ***Rule 12(3)(a) of the Arms Rule, 2016***.

The learned counsel for the respondent- State has though tried to defend the order dated 20.02.2018, passed by the court of Divisional Commissioner, Patna in Arms Appeal no. 171 of 2016 but has not been able to controvert the aforesaid two submissions made by the learned counsel for the petitioner.

Having regard to the facts and circumstances of the case and for the aforesaid grounds raised by the petitioner for assailing the order dated 20.02.2018, this Court has no option but to set aside the order dated 20.02.2018, passed by the learned Court of Divisional Commissioner, Patna in Arms Appeal no. 171 of 2016, however, liberty is granted to him to pass fresh orders, in accordance with law, within a period of 12 weeks of receipt/ production of a copy of this order, after granting an opportunity of hearing to the petitioner as also upon consideration of the provisions contained in ***Rule 12(3)(a) of the Arms Rule, 2016***. In this regard it would be apt to refer to a



judgment dated 21.01.2019, rendered by a Ld. Division Bench of this Court in *L.P.A. no. 758 of 2018*, passed in the case of the *State of Bihar and others v. Deepak Kumar*, wherein it has been held that it is not necessary that a person should have an actual threat or eminent 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.

The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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