

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17379 of 2021

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Dinesh Kumar Mahendra Prasad @ Daroga Prasad Resident of Village-
Tengrari, P.S.-Siwaipatti, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. District Magistrate-Cum-Collector, District-Muzaffarpur.
4. The District Arms Licences Officer-Cum-Licensing Authority, District-Muzaffarpur.
5. The Officer-inCharge of Siwaipatti Police Station, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan
For the Respondent/s : Mr. Md. Nadim Seraj (Gp5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 25-02-2023

1. The present writ petition has been filed seeking quashing of the order dated 17.01.2016, passed by the District Magistrate, Muzaffarpur in Case no. 06-41 of 2012 and the order dated 20.03.2020, passed by the Commissioner, Tirhut Division, Muzaffarpur, whereby and whereunder the appeal filed by the petitioner bearing Arms Appeal Case no. 190 of 2018, has been rejected and the order of the learned District Magistrate, Muzaffarpur, rejecting the case of the petitioner for grant of arms licence, has been confirmed.

2. The learned counsel for the petitioner has submitted that the petitioner is *Sarpanch* of Tengrari Gram Panchayat,



Siwaipatti, Muzaffarpur and his grandfather was possessing arms licence including one for possessing double barrel gun, on account of the area where the petitioner is residing, being badly naxal affected and the petitioner and his family members having genuine threat perception. It is also submitted that the petitioner is running Tirhut Bank Financial Company and is carrying on the business of recovery agency, authorized by the Allahabad Bank and other banks and financial companies, which involves risk and threat to the life of the petitioner and his employees. It is also submitted that the petitioner is also owner of a brick kiln and has got sufficient agricultural properties, hence, the petitioner had applied for grant of arms licence, however, the application of the petitioner, filed in the year 2012, was rejected by the learned District Magistrate, Muzaffarpur vide order dated 17.01.2016 on the ground that there is no threat to the life of the petitioner, whereafter the petitioner had preferred an appeal, however the same has also been dismissed vide order dated 20.03.2020 and this is how the petitioner is before this Court.

The learned counsel for the petitioner has referred to a judgment rendered by this Court in the case of ***Pramod Kumar v. State of Bihar*** reported in ***2023(1) PLJR 306*** to submit that mere non-existence of any threat perception would not disentitle an applicant to grant of arms licence. It is further submitted that ***Rule***



12(3)(a) of the Arms Rules, 2016 also casts a burden upon the licensing authority to make an assessment, while considering an application for grant of arms licence of the applicant regarding the very nature of his business, profession, job or otherwise and resultant genuine requirement to protect his life and property. It is thus submitted that the aforesaid aspects of the matter have completely been ignored by the licensing authority and the appellate authority, hence, the matter requires re-consideration.

The learned counsel for the respondent- State has submitted that since there is no threat perception to the petitioner, his application for grant of arms licence has been rejected and moreover, he has not filed any affidavit on behalf of his father who is a licensee of DBBL gun from before, for transfer of the arms in question, in favour of the petitioner. In this regard, the learned counsel for the petitioner has pointed out that the affidavit of the father of the petitioner is ready and in his possession and he would be filing the same before the District Magistrate, Muzaffarpur, within a period of two weeks from today.

Having regard to the facts and circumstances of the case, taking into account the materials available on record as also considering **Rule 12(3)(a) of the Arms Rules, 2016**, this Court finds that both the licensing authority as also the appellate authority have failed to properly adjudicate the case of the



petitioner for grant of arms licence and have therefore, passed orders, which are not in accordance with law as also do not consider **Rule 12(3)(a) of the Arms Rules, 2016**, vis-a-vis the petitioner herein, thus are required to be set aside, hence, the order dated 17.01.2016, passed by the District Magistrate, Muzaffarpur as also the appellate order dated 20.03.2020, passed by the learned Divisional Commissioner, Tirhut Division, Muzaffarpur are quashed and the matter is remanded back to the District Magistrate, Muzaffarpur to decide the case of the petitioner for grant of arms licence, afresh, by passing a reasoned and a speaking order, in accordance with law, keeping in view the observations made hereinabove, within a period of six weeks of receipt/production of a copy of this order.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.04.2023
Transmission Date	NA

