

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4117 of 2020

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Ranjan Kumar Mandal S/o Nageshwar Mandal Resident of Village-
Nayagaon, Godhiyasi, P.S.- Parbatta, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna.
2. The Divisional Commissioner, Munger.
3. The District Magistrate, Khagaria.
4. The Superintendent of Police, Khagaria.
5. The Sub-Divisional Officer, Gogari, District- Khagaria.
6. The Deputy Collector, In-Charge, Arms License, Khagaria.
7. The Sub-Divisional Police Officer, Gogari, District- Khagaria.
8. The Officer-in-Charge of Parbatta P.S., District- Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Singh, Advocate

For the Respondent/s : Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 27-11-2024

The present writ petition has been filed for quashing the order dated 15.3.2018, passed by the District Magistrate, Khagaria, whereby and whereunder the application of the petitioner for grant of arms license has been rejected. The petitioner has further prayed for quashing the order dated 15.11.2019, passed by the Divisional Commissioner, Munger Division, Munger, whereby and whereunder the appeal filed by the petitioner bearing Arms Appeal No. 50 of 2019 has also been dismissed and the order dated 15.3.2018, passed by the



District Magistrate, Khagaria, in Arms License Case No. 15 of 2018, has been upheld.

2. The learned counsel for the petitioner has submitted that the petitioner is an ex-military man and after superannuation, he has been running a petrol pump under the Parbatta Police Station, District-Khagaria, for his livelihood. It is stated that the petitioner had filed an application for grant of arms license before the District Magistrate, Khagaria, in the prescribed format on 29.01.2013 and upon enquiry, the Sub-Divisional Officer, Gogari, vide letter dated 16.07.2014, had recommended for grant of arms license to the petitioner, whereafter recommendation in similar terms was also made by the Officer-in-Charge, Parbatta Police Station, vide letter dated 13.03.2015, nonetheless, the application of the petitioner for grant of arms license has been rejected by the District Magistrate, Khagaria, by the impugned order dated 15.3.2018, whereafter the petitioner had challenged the same by filing an appeal bearing Arms Appeal Case No. 50 of 2019, however, the same has also stood dismissed, by an order dated 15.11.2019, on the ground that the petitioner is not having any threat perception.

3. The learned counsel for the petitioner has firstly submitted that a bare perusal of the order dated 15.3.2018,



passed by the District Magistrate, Khagaria, would show that the application of the petitioner for grant of arms license has merely been rejected on the ground that since past three years, the petitioner is not having any threat perception /danger to his life and secondly, the learned Divisional Commissioner, Munger Division, Munger, has dismissed the appeal of the petitioner, vide order dated 15.11.2019, solely on the ground that the petitioner is not having any threat perception. Nonetheless, it is submitted that it is a well-settled law that it is not necessary that threat perception should be present so as to warrant grant of arms license to the applicant. Reference in this connection has been made to a judgment, reported in **2008 (1) PLJR 151** (*Amrendra Kumar Singh vs. State of Bihar & Ors.*) as also to a judgment, reported in **2015(4) PLJR 212** (*Manish Kumar & Others vs. The State of Bihar & Ors.*).

4. *Per contra*, the learned counsel appearing for the Respondent-State has submitted that since the petitioner is not having any threat perception, the application of the petitioner for grant of arms license has rightly been rejected by the District Magistrate, Khagaria, hence, there is no infirmity with regard to the same muchless with the appellate order dated 15.11.2019, hence the present writ petition is fit to be dismissed.



5. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that the application of the petitioner for grant of arms license has been rejected solely on the ground that the petitioner is not having any threat perception, however, this Court finds that the learned Division Bench of this Court, by a judgment dated 21.1.2019, passed in **LPA No. 758 of 2018 (*The State of Bihar & Ors. vs. Deepak Kumar*)** ((reported in 2019 SCC OnLine Pat 3759) as also in another appeal bearing **LPA No. 459 of 2018 (*State of Bihar & Others vs. Manish Kumar*)** 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."

6. Yet another aspect of the matter is that the licensing authority, while considering an application for grant of arms license, has also to take into consideration the nature of trade and profession being carried out by the applicant, as is mandated by the aforesaid judgment rendered by the Hon'ble Division Bench in the case of **Deepak Kumar** (supra). In this regard, it would be relevant to refer to Rule 12(1) and (3) of the Arms Rules, 2016, which is reproduced hereinbelow:-

"12. Obligations of licensing authority in certain cases-(1) Save as otherwise provided in the Act, every licensing authority granting a licence in Form III to an individual for the restricted or permissible arms or ammunition as specified in category 1(b) and 1(c) or category III respectively in Schedule I, shall have due regard to the application of norms specified in sub-rules (2) and (3).

(3). For grant of a licence for the permissible arms or ammunition specified in category III in Schedule I, and without prejudice to the provisions contained in clause (a) of sub-section (3) of section 13, the licensing authority, based on



the police report and on his own assessment, may consider the applications of-

(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

(b). any dedicated sports person being active member for the last two years, of a shooting club or a rifle association, licensed under these rules and who wants to pursue sport shooting for target practice in a structured learning process;

or

(c). any person in service or having served in the Defence Forces, Central Armed Police Forces or the State Police Force and has genuine requirement to protect his life and/or property.”

7. This Court also finds that reference has been made in the impugned order dated 15.11.2019 to the L.P.A. filed by the Respondent State against the order, passed by the learned Single Judge in the case of ***Manish Kumar vs. Collector, Patna Division, Patna***, however, the said L.P.A. has already been decided by the learned Division Bench of this Court, by a judgment dated 21.1.2019, as aforesaid, against the Respondent-State.

8. Having considered the rival submissions, this Court finds that the impugned order dated 15.3.2018, passed by the District Magistrate, Khagaria, as also the one dated 15.11.2019, passed by the Divisional Commissioner, Munger Division, Munger, are solely based on absence of threat perception to the petitioner,



which has led to rejection of the application of the petitioner for grant of arms license, however, this Court finds that the said orders are contrary to the law laid down by the learned Division Bench of this Court in the case of **Deepak Kumar** (supra), hence, I deem it fit and proper to quash the order dated 15.3.2018, passed by the District Magistrate, Khagaria, as also the one dated 15.11.2019, passed by the Divisional Commissioner, Munger Division, Munger and remand the matter back to the District Magistrate, Khagaria, for fresh consideration, who shall, after granting an opportunity of hearing to the petitioner, pass fresh orders upon the application of the petitioner for grant of arms license, within a period of twelve weeks of receipt / production of a copy of this order, in accordance with law and by taking into account the provisions, contained in the Arms Rules, 2016, as also the law laid down by the learned Division Bench of this Court in the case of **Deepak Kumar** (supra).

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

(Mohit Kumar Shah, J)

S.Sb/-

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