

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.323 of 2019

In
Civil Writ Jurisdiction Case No.22071 of 2011

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1. The State of Bihar and Ors Bihar
 2. The Commissioner Purnea Division, District-Purnea
 3. The District Magistrate Purnea
 4. District Arms Officer Purnea

... .. Appellant/s

Versus

Md. Naiyar Alam S/o Haji Md. Abbas R/o Village-Surigaon, P.O. and P.S.
Baisi, District-Purnea

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Saroj Kumar Sharma (AC To AAAG-3)
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 04-04-2024 A batch of writ petitions was disposed of by the

impugned order. Notices were issued to the respondent which

has been validly served, but there is no appearance.

2. Learned Government Advocate points out that in

one of the writ petitions; CWJC No. 21473 of 2011, the State

had taken it up in appeal, which was disposed of by a Division

Bench of this Court in order dated 21.01.2019 in The State of

Bihar & Ors. v. Deepak Kumar (LPA No. 758 of 2018),

3. We extract the last two paragraphs of the aforesaid

judgment:-



“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 in as much 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 judgment 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.”

4. The above appeal also stands disposed on the very same terms and there shall be a direction to the respondent-petitioner, the District Magistrate, Patna to consider the issue in accordance with the directions therein, if it has already not been considered also with due notice to the respondent herein.

5. The appeal stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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