

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5462 of 2020

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Ahsan Ahemad @ Ahsan Ahmad S/o Zamil Ahemad, resident of Village-
Raghunathpur, Ward No. 06, P.S. Majhauilya, Dist.- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Chief Secretary, Bihar, Patna.
3. The Home Secretary, Department of Home, Government of Bihar, Patna.
4. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
5. The Licensing Authority-cum-the Collector-cum-District Magistrate, West Champaran at Bettiah.
6. The Superintendent of Police, Bettiah, West Champaran.
7. The Officer-in-Charge, Majhauilya, Police Station, Majhauilya, District- West Champaran.
8. The District Arms Magistrate, West Champaran at Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar, Advocate Mr. Md. Dilshad Alam, Advocate
For the Respondent/s	:	Mr.Md.N.H.Khan (SC-1) Mr. Md. Harun Quareshi, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 11-12-2024

The present writ petition has been filed for quashing the order dated 15.02.2019, passed by the District Magistrate, West Champaran at Bettiah in Case No. 17 of 2018, whereby and whereunder the application filed by the petitioner for grant of arms license has been rejected on the



ground that the petitioner has failed to produce any evidence regarding him having threat to his life. The petitioner has also challenged the appellate order dated 20.12.2019, passed by the learned Court of Commissioner, Tirhut Division, Muzaffarpur in Arms Appeal Case No. 102 of 2019, whereby and whereunder the appeal has been dismissed on same and similar grounds.

2. The brief facts of the case, according to the petitioner, are that the petitioner had filed an application for grant of arms license in the year 2017, whereafter the police had conducted verification and a report dated 07.02.2018 was submitted by the Superintendent of Police, Bettiah, West Champaran, wherein recommendation was made for issuance of arms license in favour of the petitioner. The District Magistrate, West Champaran at Bettiah had then passed the impugned order dated 15.02.2019, whereby and whereunder the application of the petitioner for grant of arms license has been rejected. The petitioner had then filed an appeal bearing Arms Appeal No. 102 of



2019, which has also stood dismissed by an order dated 20.12.2019, passed by the learned Court of Commissioner, Tirhut Division, Muzaffarpur.

3. The learned counsel for the petitioner has submitted that the petitioner is a farmer and his place of residence is near the Indo-Nepal Border, hence he is having imminent risk from the Naxal elements, hence it is imperative that he be granted arms license. It is further submitted that the only ground on which the impugned orders dated 15.02.2019 and 20.12.2019 have been passed against the petitioner, is absence of threat perception qua the petitioner herein, which according to the petitioner, cannot be a ground for rejection of the case of the petitioner for grant of arms license. In this regard, the learned counsel for the petitioner has referred to a judgment dated 14.07.2022 passed by this Court in **CWJC No. 10784 of 2021 (Vijay Kumar Singh vs. The State of Bihar & Others)** and the one dated 27.11.2024, passed by this Court in the case of **Ranjan Kumar Mandal Vs. The State of Bihar**



& Others (CWJC No. 4117 of 2020).

4. At this juncture, it would be relevant to reproduce paragraphs no. 4 to 6 of the aforesaid judgment rendered in the case of Vijay Kumar Singh (supra) herein below:-

*“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."

5. 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.

6. The learned counsel for the petitioner has next 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.

7. The learned counsel for the petitioner has next submitted that the aforesaid judgment rendered in the aforesaid case, reported in **(2015)4 PLJR 212** was challenged in appeal by the State i.e. in LPA 758 of 2018 (The State of Bihar & Ors. vs. Deepak Kumar) and the learned Division Bench of this Court, by a judgment dated 21.1.2019, reported in **(2019)1 PLJR 664** 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, a situation which has now been taken care of under Rule 12(3)(a) of the Arms Rules, 2016.

8. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case that since the petitioner is not having any threat perception, his application for grant of arms license has been rejected, hence the impugned orders dated 15.02.2019 and 20.12.2019 require no interference by this Court.

9. I have heard the learned counsel for the parties and perused the materials on record. The law with regard to the issue under consideration is no longer *res integra* inasmuch as 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)1 PLJR 664** 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.

10. Having considered the rival submissions, this Court finds that the impugned orders dated 15.02.2019 passed by the District Magistrate, West Champaran at Bettiah as also the one dated 20.12.2019, passed by the Commissioner, Tirhut Division, Muzaffarpur, are solely based on the issue of absence of threat perception qua the petitioner herein, which has led to rejection of the application of the petitioner for grant of arms license. Moreover, the said orders dated 15.02.2019 and 20.12.2019 are not only contrary to the law laid



down by this Court in the case of Vijay Kumar Singh (supra) and Ranjan Kumar Mandal (supra) but also 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 15.02.2019 passed by the District Magistrate, West Champaran at Bettiah as also the one dated 20.12.2019, passed by the Commissioner, Tirhut Division, Muzaffarpur and remand the matter back to the District Magistrate, West Champaran at Bettiah for fresh consideration, who shall, after granting opportunity of hearing to the petitioner, pass a reasoned and a speaking order, within a period of eight weeks of receipt/production of a copy of this order.

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

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
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