

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6358 of 2020

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Satyendra Kumar Yadav Son of Hira Lal Ray Resident of Mohalla- Chhota
Telpa, Mahavir Asthan, P.S.- Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner Saran Division, Chapra.
3. The District Magistrate Saran at Chapra.
4. The District Arms Magistrate Saran at Chapra.
5. The Superintendent of Police Saran at Chapra.
6. The Officer-in- Charge Chapra Town Police Station, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dewendra Narayan Singh, Adv.
For the Respondent/s : Mr.Md. N. H. Khan (SC-1)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 13-11-2024

1. The present writ petition has been filed for setting aside the order dated 13.08.2015, passed by the District Magistrate, Saran at Chapra, in Arms Case No.58 of 2015 as also the order dated 01.06.2018, passed by the Ld. Court of Commissioner, Saran Division, Chapra in Arms Appeal No.28 of 2016.

2. At the outset, the learned counsel for the petitioner has submitted that the petitioner is running the business of sale of bricks and he has a brick klin at Chanchaura Dumariya in the district of Saran, where miscreants often commit crime on account of which the petitioner is having fear from the criminals of the locality as also on account of his business activity he has



to keep and carry cash amount in the evening and night hours and there is risk of snatching of his money. In such view of the matter, the petitioner had filed an application for grant of arms license on 31.10.2014, nonetheless, the same was rejected by the District Magistrate, Saran at Chapra, by an order dated 13.08.2015 on the ground of absence of threat perception qua the petitioner, whereafter the petitioner had filed an appeal bearing Arms Appeal No.28 of 2016, however, the Ld. Court of Commissioner, Saran Division, Chapra has dismissed the same on the very same ground that is absence of threat perception qua the petitioner herein.

3. The learned counsel for the petitioner further submits that in absence of any evidence regarding threat perception, grant of arms license cannot be refused. In this connection, reference has been made to a judgment rendered by a co-ordinate Bench in the case of ***Amrendra Kumar Singh vs. The State of Bihar & Ors.***, reported in ***2008(1) PLJR 151***, as also to the one rendered by a co-ordinate Bench of this Court in the case of ***Manish Kumar & Ors vs. The State of Bihar & Ors.***, reported in ***2015(4) PLJR 212***, paragraph no.29 whereof, is reproduced 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).”

4. The learned counsel for the petitioner has also referred to a judgment rendered by the Ld. Division Bench of this Court in the case of ***The State of Bihar vs. Deepak Kumar***, reported in ***2019(1) PLJR 664***, wherein also it has been held that absence of any evidence regarding threat perception to an applicant cannot be a ground for rejection of an application for grant of arms license, inasmuch as the same would be contrary to the intent of the scheme for grant of arms license as postulated under the



Arms Rules, 2016.

5. 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 failed to convince the licensing authority i.e. the District Magistrate, Saran at Chapra, as also the Appellate Authority that he requires arms license on account of him having threat perception, the application of the petitioner for grant of arms license has been rejected as also the appeal filed by him has stood dismissed, thus there is no ambiguity in the impugned orders dated 13.08.2015 and the one dated 01.06.2018.

6. I have heard the learned counsel for the parties and perused the materials on record, from which this Court finds that the only ground on which the application of the petitioner for grant of arms license has been rejected by the District Magistrate, Saran at Chapra, by the impugned order dated 13.08.2015 is absence of threat perception, which according to this Court cannot be a ground for rejection of an application for grant of arms license in view of the judgment rendered by the Ld. Division Bench of this Court in the case of **Deepak Kumar** (supra) as also by a co-ordinate Bench of this Court in the case of **Amrendra Kumar Singh** (supra). Thus, this Court finds that



the impugned order dated 13.08.2015, passed by the District Magistrate, Saran at Chapra is contrary to law, hence is quashed. Consequently, the appellate order dated 01.06.2018 has also got no legs to stand, thus is also set aside.

7. The matter is remanded back to the District Magistrate, Saran at Chapra to pass an order afresh on the application of the petitioner for grant of arms license, wherein he shall also be obliged to consider Rule 12 (3)(a) of the Arms Rules, 2016.

8. The Ld. District Magistrate, Saran at Chapra, shall pass a reasoned and a speaking order, in accordance with law, on the application of the petitioner for grant of arms license, as aforesaid, within a period of six weeks of receipt/production of a copy of this order.

9. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2024
Transmission Date	NA

