

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.30 of 2024

In

Civil Writ Jurisdiction Case No.1933 of 2022

Sanjay Kumar Yadavendu S/o Sidheshwar Prasad, Village-Mahamanna, P.S.-
Tekari, District-Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The District Arms Magistrate, Gaya.
6. The Sub Divisional Officer, Tekari, Gaya.
7. The Sub Divisional Police Officer, Tekari, Gaya.
8. The Officer in Charge, Tekari, Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amarnath Singh, Adv.
Mr. Ashok Singh, Adv.
For the Respondent/s : Mr. P.K. Verma, AAG -3
Mr. S.K. Ghosarvey, SC to AAG -3.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 25-02-2025

1. Heard Mr. Amarnath Singh, the learned Advocate for
the appellant and Mr. P.K. Verma, the learned Additional
Advocate General for the State.
2. The appellant, an agriculturist and a contractor had
applied for grant of license for permissible arms which was
rejected by the District Magistrate, Gaya and his appeal too



was dismissed by the Divisional Commissioner, Magadh Division, Gaya.

3. The learned Single Judge also agreed with the line of thinking of the two authorities that no threat perception could be gathered by the police regarding the life and property of the appellant.
4. We are afraid whether that could be the sole reason for avoiding to grant license of permissible arms to a person.
5. The relevant provision in the Arms Act, 1959 are Sections 13 and 14. Section 14, in particular, lists the grounds on which grant of license could be refused to an applicant. For the sake of completeness and ready reference, we deem it appropriate to extract the provisions contained in Section 14 of the Arms Act, 1959:-

Refusal of licences.—(1)

Notwithstanding anything in section 13, the licensing authority shall refuse to grant—

(a) a license under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition; (b) a licence in any other case under Chapter II,—

(i) where such licence is required by a person



whom the licensing authority has reason to believe—

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition; or

(2) to be of unsound mind; or

(3) to be for any reason unfit for a licence under this Act; or

(ii) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(emphasis supplied)

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

6. Sub-section 2 of Section 14 clearly states that the Licensing Authority shall not refuse to grant license to any person merely on the ground that such person does not own or possess sufficient property. The relevant clause of



Arm Rules, 2016 is Rule -12 (3) which provides that

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

(emphasis supplied)

(b).....

(c).....

7. From a conjoint reading of the aforementioned provisions, it becomes clear that threat perception is not a necessary factor to be taken into account for granting or refusing to grant a license. Though it is not couched in such specific terms in the Act, but Sub-section 2 of Section 14 makes the intendment of the Act absolutely clear, viz., that a license cannot be refused on the ground that the person does not own or possess sufficient property. This can be read also to mean that the assessment of threat perception



or lack of it, cannot be the ground for rejecting the application for grant of license. Such omnibus ground cannot be pressed into use for defeating the very purpose of providing reasons where a license could be refused or granted.

8. A Division Bench of this Court in ***State of Bihar and Others vs. Deepak Kumar; 2019 (1) PLJR 664*** has held that license cannot be refused merely on the ground of the police authorities not having found any specific security threat or danger to the applicant. Such a ground in the opinion of the Bench, was 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 is taken care of under Rule -12(3A) of the 2016 rules.

9. The only reason, as it appears from the orders passed by the District Magistrate and the Commissioner in appeal



for refusing to grant license, is the lack of threat perception. This was taken as an irrefutable reason for the authorities to deny license to the appellant.

10. The right to life involves with it the right to protect life.

When the Act makes it very clear that sufficiency of property may not be a ground to refuse license, it could always be read as the lack of threat perception also cannot be the sole ground for refusing license. In fact, the authority granting license has to come to a definite conclusion on his assessment of the fact situation especially the facts portrayed by the applicant in his application.

11. The very nature of the business of the appellant, namely, his being a contractor and an agriculturist holding large tracts of land, should have been sufficient for the authorities to assess whether he qualified for being or not granted license.

12. Thus, finding that a very narrow approach has been adopted by the District Magistrate, Gaya and the Commissioner, Magadh Division, Gaya and which orders were approved of by the learned Single Judge, we are of



the view that all the orders need to be set aside.

13. We order accordingly.
14. The matter is remanded to the District Magistrate, Gaya to decide afresh whether in his assessment, the appellant requires to be granted license of permissible arms.
15. This exercise shall be completed within a period of three months from the date of production of a copy of this order before the District Magistrate of the concerned district.
16. The appeal stands disposed off accordingly.
17. Interlocutory applications, if any, also stand disposed off.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
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