IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7932 of 2024

CNR No. BRHC010410572024

==========

Sudip Kumar Son of Sri Jai Prakash Bhagat, Resident of Village and P.O.- Pansalba, P.S.- Beldaur, District- Khagaria, at present residing at Flat No. 8, Ganesh Laxmi Niwas, Chaudhari Tola, P.O.- Mahendru, P.S.- Sultanganj, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Munger, District- Munger.
2. The District Magistrate, District- Khagaria.
3. The District Magistrate-cum-District Arms Magistrate, District- Khagaria.
4. The Officer Incharge, P.S.- Beldaur, District- Khagaria.
5. The District Arms Officer, District- Khagaria.

... ... Respondent/s

==========

Appearance :
For the Petitioner/s : Mr.Satya Ranjan Sinha, Advocate
: Ms.Seema Kumari, Advocate
: Mr.Dhananjay Kumar, Advocate
: Ms.Swetangi Ranjan, Advocate
For the Respondent/s : Mr.Sanjeev Kr. Mishra, GP 21

==========

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR

ORAL ORDER

8 29-10-2026

Heard learned counsel for the petitioner and the learned counsel for the State.

2. The present writ petition has been preferred for the following reliefs:

> *(i) To quash the order dated 01.09.2023 passed in Arms Appeal No. 10/2023 by the Divisional Commissioner, Munger, and the order dated 18.09.2017 passed in Arms*

WEB COPY

License Case No. 84/2017 by the District Magistrate, Khagaria, rejecting the application of the petitioner for grant of an arms licence.

(ii) To direct the respondents to issue an arms licence (pistol) to the petitioner.

3. Learned counsel for the petitioner submits that the petitioner, who already holds an arms licence for a gun (bandook), applied for an arms licence for a pistol, and that the District Magistrate, Khagaria, by Memo No. 957 dated 01.09.2017, called him with his identity proof and documents for 14.09.2017, when he appeared and produced all the relevant documents. It was submitted that the petitioner is a contractor and the owner of Sudip Traders and Infratech Pvt. Ltd., engaged in work in several districts of Bihar, which requires him to stay at work places at night, so that he is exposed to risk to his life and needs a pistol for his safety. His representations, the last dated 23.02.2021, remained undecided, and his earlier writ petition, C.W.J.C. No. 3772/2022, was disposed of on 15.12.2022 with liberty to file an appeal.

4. Learned counsel for the petitioner also submits that the District Magistrate rejected the application by order dated 18.09.2017 in Arms License Case No. 84/2017, and that

WEB COPY

the petitioner's appeal, Arms Appeal No. 10/2023 before the Divisional Commissioner, Munger, was equally dismissed on 01.09.2023 without verifying the record, so that both orders are erroneous, are in violation of the principles of natural justice and equity, and have been passed without following the procedure of law. In the rejoinder, it was submitted that the petitioner, being a contractor working in several districts, stays at work places during the night and urgently needs a pistol for his security, and reliance was placed on the order dated 11.01.2016 in C.W.J.C. No. 6832/2014, by which similar orders were quashed and the matter was remitted for a fresh decision.

5. Learned counsel for the State/Respondent Nos. 2, 3 and 5 submits that the petitioner's application was received from the Superintendent of Police, Khagaria, vide letter No. 3023/C dated 07.09.2016, that no threat perception was found mentioned in the police report, and that the petitioner, when he appeared before the District Magistrate on 14.09.2017, stated that he is a contractor building townships in Madhubani, Darbhanga and Chhapra and has to stay at work places late at night, but admitted that no F.I.R. or station house diary entry had been lodged by him about any threat. It was submitted that the petitioner did not produce any evidence of a threat to his life

WEB COPY

or property, that the application was accordingly rejected by order dated 18.09.2017, and that the Divisional Commissioner, after giving the petitioner a reasonable opportunity of hearing and considering the facts on record, rightly dismissed the appeal by order dated 01.09.2023. It was accordingly submitted that the writ petition is devoid of merit and fit to be dismissed.

6. Having heard the parties and perused the materials on record, it becomes imperative to reiterate that it is true that citizens have no fundamental right to bear arms. Unlike in the United States, possessing or carrying a firearm in India is strictly a regulated privilege governed by the statutory law of the Arms Act, 1959. The grant, refusal, renewal, or cancellation of an arms licence is accordingly subject to well-defined statutory and judicial safeguards, as summarised below:

> *“ (i) Under Section 14 and Section 17 of the Arms Act, authorities cannot reject or revoke a licence based on vague allegations, whims or caprice; such decisions require recorded, objective reasons showing genuine danger to public peace or safety.*
>
> *(ii) Mere involvement or registration of a routine F.I.R. against an applicant or licence holder is generally an insufficient ground for outright cancellation or refusal, unless active*

WEB COPY

misuse, violence, or a direct threat to public safety is demonstrated.

(iii) Police verification reports and threat assessments must be weighed conclusively, rather than dismissed or accepted through generalised assumptions.

(iv) An arms licence to an individual cannot be denied solely on the ground that the applicant does not have any "specific threat or imminent danger".

(v) The authorities shall not insist upon a safety training course conducted by the accredited trainer or master accredited trainer having a licence under Rule 39, unless the same has been notified by the Central Government by issuing a general or special order in this regard, as envisaged in Rule 10(3) of the Arms Rules, 2016."

7. Applying the above to the facts of the present case, this Court finds that the District Magistrate, Khagaria, failed to consider the petitioner's application for grant of an arms licence in an objective manner. The order dated 18.09.2017 passed in Arms License Case No. 84/2017 rejected the application only on the grounds that no threat perception was mentioned in the police report and that the petitioner had not lodged any F.I.R. or

WEB COPY

station house diary entry about a threat, without assigning any statutory or cogent reason within the parameters of Sections 13 and 14 of the Arms Act. It is not the subjective satisfaction of the District Magistrate that matters, but an objective consideration of the facts on record. Surprisingly, the Divisional Commissioner, Munger, by order dated 01.09.2023 passed in Arms Appeal No. 10/2023, affirmed the rejection in an equally perfunctory manner, without independently examining the material on record or the grounds taken in the appeal.

8. Taking into consideration that the petitioner's application was forwarded by the Superintendent of Police, Khagaria, vide letter No. 3023/C dated 07.09.2016, and that the petitioner has consistently pleaded that, being a contractor engaged in work in several districts and having to stay at work places at night, he requires the licence for the protection of his life and property, it is evident that the licensing and appellate authorities ought to have examined his application on an objective consideration of these materials and the police report.

9. In these circumstances, the order dated 18.09.2017 passed by the District Magistrate, Khagaria, in Arms License Case No. 84/2017, and the appellate order dated 01.09.2023 passed by the Divisional Commissioner, Munger, in Arms

WEB COPY

Appeal No. 10/2023, affirming the same, are hereby quashed.

10. The District Magistrate, Khagaria, is hereby directed to reconsider the application of the petitioner for grant of an arms licence for a pistol, after giving him an opportunity of hearing, by a reasoned order within three months from the date of receipt or production of a copy of this order. The petitioner shall be at liberty to produce any document that may be required before the District Magistrate.

11. Accordingly, with the aforesaid observations and directions, the present writ petition is allowed.

(Alok Kumar, J)

rinkee/-

U			

WEB COPY