

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3152 of 2019

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Pramod Kumar @ Parmod Kumar Baliram Singh, resident of Village- Parsa
Tole, Kateya, P.O.- Mathiya, Police Station- Ekma, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Commissioner, Saran Division, Saran at Chapra.
3. The District Magistrate, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Officer in Charge, Ekma, District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Kashyap, Advocate
Mr. Ashok Kumar, Advocate
For the Respondent/s : Mr. P.K. Verma (AAG-3)
Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 18-07-2022

The present writ petition has been filed for quashing the order dated 24.10.2018 passed by the learned Commissioner, Saran Division, Saran at Chapra in Arms Appeal No. 244 of 2014, whereby and whereunder the appeal of the petitioner has been rejected as also the order dated 23.07.2015 passed by the District Magistrate, Saran at Chapra in Arms Case No. 18 of 2015, whereby and whereunder the application of the petitioner for grant of arms license have been rejected.

2. The brief facts of the case according to the petitioner are that he had applied for arms license in the year



2011, however, his application was rejected by an order dated 23.07.2015 passed by the District Magistrate, Saran at Chapra merely on the ground that firstly the petitioner did not have any threat perception inasmuch as there was no specific report regarding any incident of threat of life and property qua the petitioner in the concerned police station and secondly, the petitioner appears to be seeking arms license to maintain his status. The petitioner had then challenged the said order dated 23.07.2015 before the Commissioner, Saran Division, Chapra by filing an appeal bearing Arms Appeal No. 244 of 2014, however, the same was also dismissed by an order dated 24.10.2018, on same and similar grounds.

3. The learned counsel for the petitioner, in support of the petitioner's challenge to the aforesaid orders dated 23.07.2015 and 24.10.2018, has contended that merely non-existence of any threat perception would not dis-entitle an applicant from grant of arms license and in this regard he has referred to a judgment reported in *2015(4) PLJR 212*, rendered in the case of *Manish Kumar & others vs. The State of Bihar & others*, paragraph nos. 20 and 22 whereof are reproduced herein below:-

“20. Similarly, Section 14 of the Act lays down that, notwithstanding anything contained in Section 13, the



licensing authority may refuse to grant the arms license, on certain grounds. Section 14 of the Act nowhere discloses that lack of any evidence regarding threat perception upon the applicant may also form a ground for refusal of the arms licence.

22. Indeed, the subjective satisfaction of the licensing authority on the reasons set forth in Section 13 or 14 of the Act would form a condition precedent for grant of licence or refusal to grant licence but the so-called evidence regarding threat perception does not find specific place either in Section 13 or 14 of the Act. So far Section 14(1)(b)(i)(3) of the Act is concerned, that is only applicable in case the applicant is found to be unfit on any reason provided under the statute but so-called threat perception, not being any ground either in Section 13 or Section 14, one would wonder as to how it can form a ground for refusal of licence. Similarly, even the directive of the Central Government or any authority for such consideration would also not be meaningful in the absence of any statutory provision in that regard. The letter dated 31.03.2010 issued by the Ministry of Home, Central Government, has been considered by a Single Bench of this Court while considering the issue of threat perception for refusal of licence in C.W.J.C. No. 2503 of 2013 (Ram Bachan Rai vs. The State of Bihar and others). While disposing of the aforesaid writ application vide order dated 25.08.2014 the learned Single Judge has opined as under:-

“Even the circular relied upon by the District Magistrate issued by the Government of India does not create any bar. Paragraph ii(a) of the circular in fact merely provides that applications from persons who have perceived threats may be considered. Such requirement in no manner would exclude such persons who do not face any such treat and for the simple reason that any



such condition being imposed in a circular issued by the department, would be contrary to the statutory provisions.”

4. Thus the learned counsel for the petitioner has contended that it is a well settled law that an application for grant of arms license cannot be rejected on the ground that the applicant is not having any threat perception inasmuch as Sections 13 and 14 of the Arms Act, 1959, though stipulates the parameters for grant of arms license, however, the same does not stipulate such classification as a pre-condition that the license can only be granted to a person who has threat perception. The learned counsel for the petitioner has further raised an additional ground to assail the aforesaid orders dated 23.07.2015 and 24.10.2018 to the effect that as per Rule 12(3) (c) of the Arms Rule, 2016, the licensing authority is required to consider the application of an applicant taking into account the nature of business, profession, job or otherwise, leading to the genuine requirement of such applicant to protect his life and/or property. It is submitted that this aspect of the matter has totally been ignored by the aforesaid two authorities while rejecting the case of the petitioner for grant of arms license. The learned counsel for the petitioner has also submitted that the petitioner is a businessman dealing in the trade of gur (jaggery), hence has



fear to his life on account of business rivalry. In this regard, the learned counsel for the petitioner has referred to a judgment referred to by the learned Division Bench of this Court in the case of **State of Bihar vs. Deepak Kumar**, reported in **2019(1) PLJR 664**, paragraph no. 12 whereof is reproduced herein below:-

“12. 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.”

5. Per contra, though the learned counsel for the respondent-State has vehemently opposed the present writ petition, however, has submitted that in case the matter is remanded back, the aforesaid aspects of the matter, as argued by the learned counsel for the petitioner, shall be examined and appropriate decision shall be taken.

6. Having regard to the aforesaid facts and circumstances of the case and for the reasons mentioned herein above as also considering the law laid down by this Court in the case of Manish Kumar (supra) and Deepak Kumar (supra), I deem it fit and proper to allow the present writ petition, quash the order dated 23.07.2015 passed by the Commissioner, Saran Division, Saran at Chapra as also the order dated 24.10.2018 passed by the District Magistrate, Saran at Chapra and remand the matter back to the District Magistrate, Saran at Chapra to reconsider the aforesaid aspect of the matter and after granting an



opportunity of hearing to the petitioner, pass appropriate orders, in accordance with law, within a period of 12 weeks of receipt/production of a copy of this order.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	23.07.2022
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