

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1276 of 2018

In
Civil Writ Jurisdiction Case No.18790 of 2011

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1. The State Of Bihar and Ors
 2. The Commissioner, Munger Division, Munger.
 3. The District Magistrate, Munger.
 4. The District Arms Magistrate, Munger.

... .. Appellant/s

Versus

Jamshed Ansari @ Md. Jamshed Ansari Son of Md. Yunus Resident of
Mohalla Nayagaon, P.S. Kotwali District-Munger.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Saroj Kumar Sharma, AC to AAG 3
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 07-04-2022

Heard Mr. Saroj Kumar Sharma, learned AC to AAG

-3 for the appellants/respondents.

The State has challenged the order dated 11.08.2015 passed in CWJC No. 18790 of 2011, whereby the decision of the respondents in rejecting the claim of the respondent to be granted arms license has been set aside and the records have been sent to the licensing authority to take a fresh decision in accordance with law within a period of three months from the



date of receipt/production of a copy of that order by passing a reasoned order.

It appears that notice in this appeal was served upon the private respondent no. 5 but he has chosen not to appear.

We notice that the aforesaid judgment was passed in a batch of writ petitions.

The orders of the licensing authority and the appellate authority were set aside on the sole ground that the applicants were not required to establish the actual threat perception for them to obtain license to hold firearms.

In one such case, an appeal was preferred by the State vide LPA No. 758 of 2018, where an objection was raised on the reasoning given by the learned Single Judge that the aforesaid ground viz. the applicant not establishing actual threat perception is no reason for refusal of license, was found to be inconsistent with the scheme of the Act as also the provisions incorporated under the new Arms Rules of 2016.

Though the learned Single Judge had dealt with the instant writ petition and other cases on the basis of the old Arms Rules, but the objection of the State was sustained in the aforesaid LPA by taking into account that under the new Arms Rules, it is one of the obligations of the licensing authority to



take into account necessary factual inputs including the very nature of the business of the applicant, his profession, job or otherwise which renders the requirement to protect his life and property and therefore the requirement of being granted license to hold firearms.

Thus, the order passed by the learned Single Judge in that case was modified to the extent that while revisiting the decision to grant license, this aspect also has to be kept in mind regarding the threat perception and the reasoning of the learned Single Judge was found to be incorrect in as much as it was held by him that such is not the requirement under the Arms Act for grant or rejection of license to hold firearms.

In sum and substance, the remand was justified but the licensing authority was directed to take into account the obligations and requirements under Rule 12 of the Arms Rules, 2016.

Considering the aforesaid judgment of the Division Bench in LPA No. 758 of 2018 referred above reported in *2019 (1) PLJR*, Page 664, the present appeal is also disposed of in terms of that order.

The licensing authority shall consider the grant of license to the respondent in accordance with 2016 Rules and



take a fresh decision in the matter within a reasonable period of time.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
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