

IN THE HIGH COURT OF JUDICATURE AT PATNA

Rajiv Kumar Singh

vs.

The State of Bihar and Others

Civil Writ Jurisdiction Case No.8745 of 2022

01 August, 2023

(Hon’ble Mr. Justice Mohit Kumar Shah)

Issue for Consideration

Whether absence of any threat perception would not dis-entitle an applicant from grant of arms license?

Headnotes

Arms Act, 1959 – section 13, 14 - Arms Rule, 2016 - Rule 12(3)(c) - Grant of Arms License vis-à-vis Threat Perception – writ petition to challenge impugned order upholding the rejection of petitioner’s application for grant of arms license on the ground that the petitioner is not having any threat perception.

Held: 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 – though sec. 13 and 14 of the Arms Act 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 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 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 of grant of license – in the present matter, the Respondent authorities failed to take into account the fact that petitioner is a businessman and a landlord, hence has fear to his life on account of business rivalry – impugned order set aside – matter remanded – writ allowed. (Para – 3, 4, 6)

Case Law Cited

Manish Kumar & Others vs. The State of Bihar & Others, 2015(4) PLJR 212; State of Bihar vs. Deepak Kumar, 2019(1) PLJR 664Relied Upon.

List of Acts

Arms Act, 1959

List of Keywords

Parameters for Grant of Arms License; Threat Perception; Threat of Security and Safety; Licensing Authority; Nature of Business; Profession; Job;

Case Arising From

Order dated 23.05.2017, passed by the District Magistrate, Saran at Chapra, as well as appellate order dated 28.04.2018 whereby and whereunder the application of the petitioner for grant of arms license has been rejected.

Appearances for Parties

For the Petitioner/s: Mr. Praveen Prabhakar, Senior Advocate

For the Respondent/s: Mr. Manish Kumar, GP-4

Headnotes Prepared by Reporter: Ghanshyam Advocate

Judgment/Order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8745 of 2022

Rajiv Kumar Singh @ Rajeev Kumar Singh Son of Late Ram Bihari Singh
Resident of Mohalla- Sahebganj, Arya Samaj Road, Chapra, P.O.- Chapra,
P.S.- Chapra Town, District- Chapra (Saran).

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Saran Division, Chapra (Saran).
3. The District Magistrate, Chapra (Saran).
4. The Sub Divisional Officer, Chapra Sadar, Chapra (Saran).
5. The Senior Superintendent of Police, Chapra (Saran).
6. The Superintendent of Police, Chapra (Saran).
7. The Circle Officer, Circle Office, Sadar Chapra, Saran.
8. The Officer In-charge, Chapra Town Police Station, Chapra (Saran).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Praveen Prabhakar, Senior Advocate
For the Respondent/s : Mr.Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 01-08-2023

1. The present writ petition has been filed challenging the order dated 23.05.2017, passed by the District Magistrate, Saran at Chapra, whereby and whereunder the application of the petitioner for grant of arms license has been rejected on the ground that the petitioner is not having any threat perception. The petitioner has also challenged the appellate order dated 28.04.2018, whereby and whereunder the



appeal filed by the petitioner bearing Arms Appeal Case No. 86 of 2017, has been dismissed by holding that since the District Magistrate, Saran at Chapra, has already held that there is no threat of security and safety to the petitioner herein, there is no need of any interference.

2. The learned senior counsel for the petitioner has submitted that the petitioner is a landlord and is having agricultural land as also residential and commercial properties, on account of which he is faced with threat from the anti-social elements, hence he had applied for grant of arms license and transfer of the DBBL gun, which was being possessed by his deceased father, by filing an application on 23.07.2015, however, the same has been rejected by the learned District Magistrate, Saran at Chapra, by an order dated 23.05.2017, on the ground that the petitioner is not having any threat to his life or property. The petitioner had then challenged the said order dated 23.05.2017, by filing an appeal bearing Arms Appeal Case No.86 of 2017, however, the same has also stood rejected, by an order dated 28.04.2018.

3. The learned senior counsel for the petitioner, in support of the petitioner's challenge to the aforesaid orders dated 23.05.2017 and 28.04.2018, 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 threat 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 senior 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 senior counsel for the petitioner has further raised an additional ground to assail the aforesaid orders dated 23.05.17 and 28.04.2018 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 senior counsel for the petitioner has also submitted that the petitioner is a businessman and a landlord, hence has fear to his life on account of business rivalry. In this regard, the learned senior 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 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 leaned counsel for the respondent-State has vehemently supported the impugned order dated 23.05.2017 and 28.04.2018, however, has submitted that in case the matter is remanded back, the aforesaid aspects of the matter, as argued by the learned senior 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 28.04.2018, passed by the Commissioner, Saran Division, Saran at Chapra and remand the matter back to the Commissioner, Saran Division, 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.

7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.09.2023
Transmission Date	NA

