

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 191/2017
Gajendra Prasad Yadav
Vrs.
The State of Bihar
ORDER

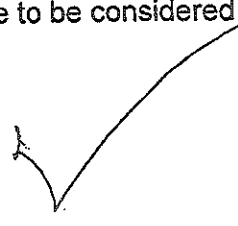
The instant appeal petition has been taken up for hearing pursuant to the direction given by the Hon'ble High court while disposing of CWJC No. 12082/2018, Gajendra Prasad Yadav Vrs The State of Bihar & ors on 16.07.2018.

The brief facts of the case are that the present appellant had filed an application for grant of an arms licence on 23.08.2012 for N.P. bore Rifle before the D.M. Saran. Thereafter a report was called for from S.P. Saran which was sent vide letter No. 5263/confi. Dt. 29.08.2016. Then the appellant alongwith his learned advocate appeared before the licencing authority, the D.M. Saran on 23.05.2017 and the learned D.M. after hearing finally vide order dt. 23.05.2017 rejected the said application of the appellant. This led to filing of an Arms Appeal case No. 191/2017 before this Court and this Court vide order dt. 15.02.2018 rejected the said appeal case at the admission stage itself, on the ground of about seven months delay in preferring the appeal. Feeling aggrieved by the said dismissal of his appeal, the appellant approached the Hon'ble High Court by way of filing CWJC No. 12082/2018. The said writ case was disposed of vide order dt. 16.07.2018 and remitted the case back to this Court with a direction to consider the application for the condonation of delay in filing the appeal and accordingly decide the appeal. Thus, the instant appeal has come before this Court for reconsideration.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant at the very outset of his argument submitted that the impugned order has been passed without considering the relevant facts of the case properly as well as the relevant provisions of the Arms Rule-2016. He further argued that the appellant is a business man and has got adequate landed property and he has to move with cash for business purpose every day. He also submitted that late Nagendra Prasad Yadav, father of the appellant was a arms licensee and after his death, the said gun has been deposited with an arms dealer and the appellant filed application for grant of arms licence in the hope of getting his father's gun and also for protection of life and property of his own. But the learned D.M. without appreciating the fact outrightly rejected the claim without considering the favourable recommendation made by the authorities. The learned counsel further argued that the learned D.M. has not considered the danger to the life and property of the appellant and without recording any reasons, he rejected the application. The learned counsel lastly prayed that the impugned order be set aside and this appeal be allowed.

The learned A.P.P. appearing on behalf of the state, while opposing, the arguments advanced by the learned counsel for the appellant, submitted that assessment of threat perception by the licensing authority has been made an essential condition for consideration of grant of an arms license as per the detailed instruction contained in the letter No. 3026 dt. 13.04.2010 issued by the dept. of Home, Govt. of Bihar and also there is no specific report regarding any incident of threat of life and property to the appellant in the police report. As such the appellant does not deserve to be considered for the grant of licence. He also



submitted that the learned D.M. Saran has passed a reasoned and speaking order having no scope of interference.

Considering the facts and circumstances of the case, material available on records and on going through and averments made by the parties, it appears that the appellant's application for grant of licence has been refused on the ground that there was no specific report regarding threat to his life and property in the police report. It appears that the learned D.M. is correct in holding that there is no threat of security and safety to the appellant and he wants arms licence for status symbol and his this finding was based on the report of S.P. Saran. The learned D.M. also specifically mentioned in his order that nothing is available on the record to suggest that the appellant had faced any untoward incident previously so that his claim for grant of arms licence may be considered independently. In fact arms licence are normally issued by the licencing authority on his subjective satisfaction. It has also been observed by learned D.M. that if most of the application for grant licence is allowed, then there would be phenomenal rise in domestic and social tension which would further lead to threat to public peace and security. In the instant case it is quite obvious that the D.M. Saran acting as licencing authority passed a reasoned and speaking order. Even the appellant also failed to furnish substantial reasons regarding need of licence or any specific instance of threat before the licencing authority with regard to threat to his life and property.

In the light of abovementioned facts, I do not find any illegality in the impugned order, hence the same is upheld and this appeal being completely devoid of merit is dismissed, accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.