

In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 231/2018

Sheo Dayal Prasad Singh

Vrs.

The State of Bihar & ors.

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 22.05.2018 in Arms Licence case No. 193/2016 whereby and whereunder the appellant's application for grant of Arms licence with respect to Pistol/Revolver has been rejected.

The brief facts of the case are that appellant Sheo Dayal Prasad Singh, S/o Bhuneshwar Prasad Singh R/o Vill-Gaura, P.S. Marhaurah, Dist-Saran filed an application before the licencing authority, D.M. Saran for grant of an Arms license. Thereafter, a report was called for from S.P. Saran which was sent vide letter No. 4130/confi. dated 07.07.2016. Then the learned D.M. finally heard the matter and rejected the said application of the appellant.

Feeling aggrieved by and dissatisfied with the aforementioned refusal order passed on 22.05.2018 the petitioner has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant, at the very outset of his arguments, submitted that the impugned order is bad in law and the same is also not maintainable in the eyes of law. He further submitted that the appellant filed an application for the grant of the licence as it was necessitated for the safety and security of the appellant as he is engaged in Brick Klin production a reputed Brick Kiln running in the name and style of "Vijay ETT Udyog" belongs to his family and an application for issuance of arms licence for Pistol/Revolver was applied by the appellant before the licencing authority i.e. the D.M. Saran. He further submitted that the appellant and his family members are facing grave threat perception to their life and property. It is not out of place to mention here that in connection of the business the appellant is bound to carry hard cash from one place to another, therefore, he is in necessity of an arms for protection of his life and valuable articles. Apart from this it is also stated here that house of the appellant is situated at a distance of 08 kilometres from the nearest police station and several occurrences of Dacoity and robbery taken place in adjacent villages of the appellant. The learned counsel also said that the learned D.M. without making any proper assessment of the threat perception and safety and security of the appellant, refused to grant licence which is improper and against law. He also submitted that without making any assessment of the threat perception of the appellant the learned D.M. relying upon the report of the S.P. Saran rejected the application which is totally illegal, arbitrary and against the observations made by Hon'ble High Court in several cases. He lastly submitted that the impugned order of D.M. Saran is fit to be set aside.

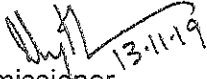
The learned A.P.P. appearing on behalf of the state, while opposing, the arguments advanced by the learned counsel for the appellant, submitted that assessment of threat perception by the licensing authority has been made an essential condition for consideration of grant of an arms license as per the 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 the 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 his this finding was based on the report of S.P. Saran. In fact arms licence are normally issued by the licencing authority on his subjective satisfaction. In the instant case it is quite obvious that the D.M. Saran acting as licencing authority passed a reasoned order. Even the appellant also failed to furnish substantial reasons regarding need of licence or any proof of specific instance of threat faced by him earlier before the licencing authority.

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 any merit is dismissed, accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.