In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 139/2016

Amit Kumar Bhardwaj

Vrs.

The State of Bihar

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 18.02.16 whereby and whereunder the appellant's application for grant of Arms licence with respect to D.B.B.L Gun has been rejected.

The brief facts of the case are that appellant Amit Kumar Bhardwaj S/o Late Prabhu Singh, R/o Marhaurah, 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. 4424/confi. dt. 20.08.2015. 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 18.02.16 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 argued that appellant is an Advocate in Chapra Civil Court and practices in Civil and criminal cases and further told that due to his profession. Fortunately no any untoward incident has occurred till date, but there is possibility of such incident in future. He lastly strongly pleaded for required arms licence to the appellant for his safety and security. He further submitted that the learned court below while passing the impugned order has ignored the facts stated in police report as nowhere in the said report any adverse remarks were made against the appellant. But the learned D.M. Saran without any justification has rejected his application of licence. He lastly said that as the appellant faces constant threat to his life and property, his claim for licence should not have been rejected outrightly. 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 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. Beside that he also held that the appellant seeks arms licence to maintain his status symbol. 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. 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 granted 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 and speaking order. Even the appellant also failed to furnish any 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.

24/10/18

Commissioner
Saran Division, Chapra.

24/10/18

Commissioner
Saran Division, Chapra.