

In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 244/2015

Pramod Kumar

Vrs.

The State of Bihar

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 23.07.2015 whereby and whereunder the appellant's application for grant of Arms licence has been rejected.

The brief facts of the case are that appellant Pramod Kumar S/o Balram Singh, R/o Parsa Tole-Kateya, P.S.-Ekma, 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. 4999/confi. dt. 21.11.2014 and 5600/confi. dt. 20.12.2014. As the case of the petitioner remained under for quite some time, the petitioner approached the Hon'ble High Court by way of filing CWJC No. 329/2014 which was disposed of by order dt. 17.03.2015 with a direction to dispose of the case in three months. Thereafter, the learned D.M. heard the case of the petitioner and finally vide order dt. 23.07.2015 rejected the said case of the petitioner.

Feeling aggrieved by and dissatisfied with the aforementioned refusal order passed on 23.07.2015 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 a businessman of Meetha (Gudh) and has got fear about his life in danger always and for which he has applied for licence. He further submitted that appellant has also filed CWJC No. 392/14 in the High Court of judicature at Patna and Hon'ble High Court ordered dt. 17.03.2015 to D.M. Saran to give opportunity to the appellant but D.M. Saran has not considered the request of appellant and rejected his said application. He further argued that the appellant is engaged in Jaggery business as such he faces threat to his life and property. He further submitted that the learned court below while passing the impugned order has ignored the facts stated in police report as no where in the said report any adverse remarks were made against the appellant. He also said that error in the order itself shows that the same has been passed on conjectures and surmises. 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

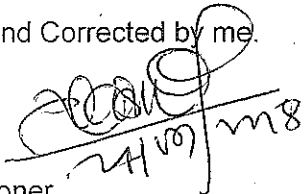


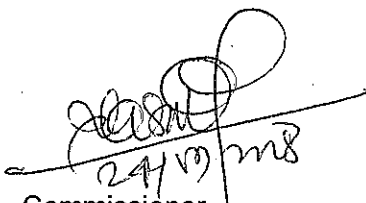
specific report regarding any incident of threat of life and property to the appellant in the police report. As such the appellant does not deserve to be considered for the grant of licence. He also submitted that the learned D.M. Saran has passed a reasoned and speaking order having no scope of interference.

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.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.