

In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 29/2016

Ravindra Nath Das

Vrs.

The State of Bihar

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 08.08.2014 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 Ravindra Nath Das S/o Late Eshawar Ram, R/o Vill- Brahampur, P.S.-Bhagwan Bajar, 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. 2579/confi. dt. 29.07.12. 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 08.08.2014 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 learned D.M. has erred and not applied his mind in this regard for grant of licence to the appellant so that he could get transferred the arms held by his father. He also submitted that the learned D.M. has erred and not applied his mind that government instruction is clearly directed to the all D.M. to issue licence to though who wants to get licencee gun of his father. He also argued that the learned D.M. rejected his arms licence application that there is no threat perception of life to the appellant or appellant family members. He further submitted that the appellant filed an application for the grant of the licence as it was necessitated to get transfer of the arms standing in the name of his father. 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. It appears that the learned D.M. is not correct in holding that there is no threat of security and safety to the appellant and his this finding is merely based on the report of S.P. Saran. In fact the learned D.M. should have also considered the fact that the appellant needs arms licence for his own safety and security and also to retain the said arms earlier belonging to his father. It appears that the appellant's prayer for grant of licence has been rejected on extraneous consideration without considering the facts placed with regard to need of licence before the licencing authority for consideration of his case. Thus it appears that although the appellant has ^{been} able to furnish all details for the need of licence before the licencing authority despite that his case has not been considered appropriately by appreciating the facts and circumstances of the case.

For the reasons mentioned above, I am not constrained to uphold the impugned order. Hence, the same is set aside and the case is remitted back to the licencing authority, the D.M. Saran for reconsideration and passing a fresh order in accordance with law.

With the aforesaid observations and directions, this appeal petition is disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.