

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 92/16
Kumod Kumar
Vrs.
The State of Bihar
ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 28.01.2016 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 Kumod Kumar S/o Krishneshwar Prasad Sharma, R/o Vill-Dahiyawa Siya Masjid, P.S.- Chapra Nagar, Dist-Saran filed an application before the licencing authority, D.M. Saran for grant of an Arms licence. Thereafter, a report was called for from S.P. Saran which was sent vide letter No. 1204/confi. dt. 14.03.15. 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 28.01.16 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 submitted that the appellant filed an application for the grant of the licence as it was necessitated in connection with his life and property. The learned counsel further said that although the appellant's grand father was a licence and as he died and all the three sons of his grand father has given an affidavit that if the said arms licence is transferred to the appellant they would have no objection but as he reside separately from the appellant there is dire need of arms to the appellant as he resides in naxal affected area. He also said that the appellant is argued in business activity and he has to carry cash during night as such he always felt threat to his life. Learned counsel further argued that the learned D.M. without considering this important facts rejected the application of the appellant. The learned counsel further assailing the impugned order of the D.M. Saran so far his reliance upon the Govt. letter is concerned, he categorically said that for that the letter of the central Govt. quoted has not specifically provided for not granting of the licence rather it requires strict verification which has been made mandatory requirement for granting licence this is the spirit of the first part of the letter which has satisfactorily been done by the police agency and report of the police in this respect is in the file which has not been considered with positive view. 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. 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 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 rise in domestic and social tension which further leads 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
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