

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 127/2016
Abhishek Kumar Singh
Vrs.
The State of Bihar
ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 18.02.2016 whereby and whereunder the appellant's application for grant of Arms licence with respect to Revolver/Pistol has been rejected.

The brief facts of the case are that appellant Abhishek Kumar Singh S/o Devendra Mohan Singh R/o Vill-Chhapiya, P.S.-Mashrak, 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. 2182/confi. dt. 09.05.2015. 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 18.02.2016 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 is a registered Govt. contractor and he used to execute the contract allotted to him and as such he has to move frequently into far of places in rural areas. He has also to carry heavy cash amount for making labour payment. The learned counsel further submitted that the appellant is already in possession of an arms licence of Rifle but that is not sufficient for his safety and security. He also submitted that the appellant has taken the settlement of sand Ghat for five years and on many occasion his employees have been threatened and cash has been looted from them by the criminals. He also said that for such incidents several FIR have been lodged. The appellant's company has a turn over of about two crore rupees annually. The learned counsel further submitted that considering the danger of his life the appellant applied for arms licence and requested for the grant of licence by saying everything details regarding danger of his life and necessity of arms licence but the same was not considered by the learned D.M. Saran. 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 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

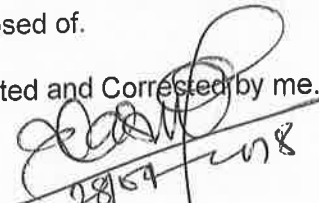
threat perception by the licensing authority has been made an essential condition for consideration of grant of an arms licence as per the detailed instruction contained in the letter No. 3026 dt. 13.04.2010 issued by the dept. of Home, Govt. of Bihar and also there is no specific report regarding any 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.

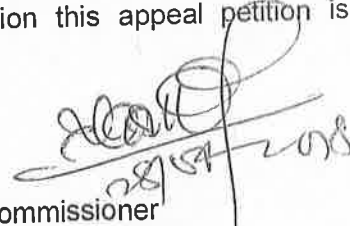
Considering the facts and circumstances of the case, material available on records and on going through and averments made by the parties, it appears that the appellant's application for grant of licence has been refused on the ground that there was no specific report regarding threat to his life and 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 his this finding was based on the report of S.P. Saran. However, the appellant's claim is that as he is engaged in sand trade and he runs a company having annual turn over of rupees two crore or more, and several attempt by the criminals on the life of his employees has already taken place in the past on many occasions but this important point has not been considered by the D.M. Saran and he rejected the application. I find that the appellant's is justified to some extent as he feels insecure with one arms. Keeping in view the business of the appellant as well as the incidents taken place in the past, the appellant's request for granting arms licence with respect to another weapon i.e. Revolver/Pistol seems to be proper. Even the relevant provision of the Arms Act. does not prohibit an individual for getting a licence for possessing different kind of arms at the same time. Thus, it appears that the learned D.M. has not taken into consideration all these facts properly. On this account alone, the impugned order is unsustainable.

For the aforementioned reasons, I am not inclined to uphold the impugned order of D.M. Saran, as such the same is set aside and the case is remitted back to D.M. Saran to pass a fresh order in accordance with law after affording opportunity of hearing to the party.

With the abovementioned observations and direction this appeal petition is disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.