In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 95/2016

Baban 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 as contained in memo No. 88 dt. 10.02.2016 whereby and whereunder the appellant's application for grant of Arms licence with respect to N.P. Bore. Rifle has been rejected.

The brief facts of the case are that the appellant Baban Kumar, S/o Daroga Prasad Rai, R/o Vill-Bariyarpur, P.S.-Bheldi, Dist-Saran filed an application before the licensing authority, D.M. Saran for grant of Arms license on 10.12.2012. Thereafter, a report was called for from S.P. Saran which was received vide letter No. 6650/confi. dt. 08.12.2015. and thereafter case was taken up for hearing by D.M. Saran and finally vide order dt. 28.01.2016 the said application was rejected.

Feeling aggrieved by and dissatisfied with the aforementioned refusal order passed on 28.01.2016, the Appellant 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 also submitted that the appellant had applied for licence to written the arms held by his father who has since been died which was issued to him vide licence No. 59/1958 He further submitted that the appellant filed an application for the grant of the licence as he is involved in the business of sand. He further submitted that the appellant has to move from one place to another and even in night also as such there is constant threat to his life and property. He also submitted that as the appellant does not have any other arms licence he may be granted the licence for his security and safety. The learned counsel further argued that the learned D.M. has erred and not applied his judicial mind in this regard that appellant's application was highly recommended by the authorities and inspite of that his said application has been rejected. He further assailed the impugned order by saying that the same has been passed in casual manner without considering the report of various authorities who had recommended for licence. He also argued that no reason has been assigned by the D.M. as to how he came to know that the appellant does not have any threat to his life and property and appellant seeks licence for maintaining his status symbol. The learned counsel lastly said that as the impugned order is arbitrary and against the provision is Arms Act, the impugned order passed by D.M. Saran is fit to be set aside and this appeal be allowed.

The learned A.P.P. appearing on behalf of D.M. Saran submitted that as the appellant failed to satisfy the licencing authority about the so call threat perception his said application has been rejected as per the instructions contained in the letter issued

by Ministry of Home Affairs Govt. of India, New Delhi. He further submitted that now it has been mandatory in the said letter that there must be specific report regarding threat to the life of the person seeking licence in the police report. In fact no such incident has been mentioned in the police report. He lastly said that the impugned order is legal, valid and proper as such the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that the appellant's application for grant of arms licence has been rejected mainly on the ground of his failure to satisfy the licencing authority, the D.M. about his alleged threat perception. Obviously the said findings of the licencing authority seems to be just and proper as nothing is available in the record to suggest that the appellant or his family had any threat perception during the time of consideration of his said application or in the past so he should have been granted an arms licence for his safety and security as held by the licencing authority. Apart from that the learned counsel for the appellant failed to point out any specific illegality in the impugned order of D.M. Saran other than questioning the genuineness of presumption of D.M. Saran about the threat perception of the appellant and also contended that the same can not be a reason for refusal of arms licence. This plea of learned counsel can not be accepted in view of the conclusion arrived at by the licencing authority.

Thus, for the aforementioned reasons, I am not inclined to make any interference in the said impugned order for the lack of any substantial ground or reasons. As such the impugned order is upheld and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.

18/08/2017

Commissioner
Saran Division, Chapra.

18/08/2017

Commissioner
Saran Division, Chapra.