

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No.122/2016
Binod Kumar Singh
Vrs.
The State of Bihar
ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran, as contained in memo No. 124/मु न्यायालय/ dt.18.02.16 whereby and whereunder the application dt 07.08.13 of the appellant for grant of arms license of DBBL gun has been rejected.

The brief facts of the case are that appellant Binod Kumar Singh S/o Late Chatrubhuj Pd. Singh, R/o Vill-Puchari, P.S.-Baniyapur, Dist-Saran filed an application before the licensing authority, D.M. Saran for grant of Arms license. Thereafter, a report was called for from S.P. which was sent vide letter No. 3139/confi. Dt. 06.07.2015 and then the entire record was sent in the Court of D.M. for hearing. The case was heard on 11.02.16 in presence of the appellant and the licensing authority, the D.M. Saran on finding that there was no specific report regarding the threat of life to the appellant or his other family members, he finally concluded that the appellant seeks arms license only for maintaining his status symbol and finally rejected the said application of the appellant.

Feeling aggrieved by and dissatisfied with the aforementioned refusal order, contained in memo No. 124 dt. 18.02.16, 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 further submitted that the appellant filed an application for the grant of the licence for D.B.B.L. gun on the ground that his grand father Late Janardan Prasad Singh had got licence for D.B.B.L. gun bearing No. 90/1969 and when the grand father of the appellant became old he expressed his desire to transfer the gun to his son Chatrubhuj Prasad Singh and then licence No. 08/1984 was issued to his father. He further submitted that now as the father of the appellant has expressed the similar desire to transfer his gun to his son and it was for that reason the appellant applied for Arms Licence but the learned D.M. without considering the report of police officer in which nothing adverse was reported against the appellant refused to grant the licence. Learned counsel also submitted that the father of the appellant has filed affidavit stating therein that if his son is being issued licence for D.B.B.L. gun then he would surrender the licence before the licencing authority. He also argued the learned D.M. based his decision mainly on the ground of the letter No. 3026 dt. 13.04.2010 issued by the Home Deptt. Govt. Of Bihar, Patna in which lack of evidence regarding threat perception is an important criterion for refusal to grant license. The learned counsel further submitted that the Hon'ble High Court, in a series of decisions, held that lack of evidence regarding threat perception can not form a ground for refusal of arms license under section 14 of the Arms Act-1959. The

learned counsel lastly said that the impugned order of D.M. Saran is illegal as such the same may be set aside and in turn this appeal petition be allowed.

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 it is on that ground the application has been rejected.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties, it is quite obvious that the appellant's application for grant of an arms license with respect of D.B.B.L.gun has been rejected by D.M. Saran solely on the ground that there was no specific report regarding the threat of life and property to the appellant in the police report thereby enabling the licensing authority to hold that the license is being obtained only for maintaining status symbol. Although, the learned counsel for the appellant strongly opposed this conviction of the licensing authority and also placed reliance on the series of judgment of Hon'ble High Court wherein it has been categorically held that lack of threat perception should not be the only criterion for refusal of license but even after that the licensing authority has not considered this important observation of the Hon'ble High Court. It is also seen that the learned D.M. has relied on the police report for ascertaining the threat perception of the appellant and finally held that the appellant needs license only as a mark of status symbol. This findings of D.M. as a licensing authority seems to be correct. From the pleadings forwarded by the learned counsel as well as from the material available on record, it is quite obvious that the present appellant being a grand son of the original licensee and son of the present licensee, wants to retain the gun as a family property and for that reason he wants to get licence. On the other hand in the police report, there is no specific report of any threat to any member of family. Obviously such practice of retaining the arms from generation to generation is not proper and arms licence can not be a perpetual right or fiefdom of a family and it can not follow the principle of ordinary succession. In fact arms licence is granted by the licencing authority by ascertaining the threat perception as well as the safety and security of the individual or his family members. Here the appellant has miserably failed to satisfy the licencing authority to that extent so far as threat perception is concerned to the appellant himself or his other family members. What is more subjective satisfaction of the threat perception to an individual seeking arms licence is an important criterion for considering for grant of an arms licence by the licencing authority.

For the aforementioned reasons, the impugned order is upheld and this appeal petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


11/07/2017
Commissioner
Saran Division, Chapra.


11/07/2017
Commissioner
Saran Division, Chapra.