

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 119/2016
Maqsood Alam
Vrs.
The State of Bihar
ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 11.02.2016 as contained in memo No. 120 dt. 18.02.2016 whereby and whereunder the appellant's application for grant of Arms licence with respect to Rifle has been rejected.

The brief facts of the case are that the appellant Maqsood Alam S/o Zakir Husain, R/o Vill-Gopalpur, P.S.-Doriganj, Dist-Saran filed an application before the licensing authority, D.M. Saran for grant of Arms license on 02.01.2015. Thereafter, a report was called for from S.P. Saran which was received vide letter No. 2484/confi. dt. 25.05.2015. and thereafter case was taken up for hearing by D.M. Saran and finally vide order dt. 11.02.16 the said application was rejected.

Feeling aggrieved by and dissatisfied with the aforementioned refusal order passed on 11.02.16, 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 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 treat 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 record pleadings advanced by the learned counsel for the parties and on perusal of the impugned order it appears that the application of this appellant for grant of licence has been rejected on the ground that from the report of S.P. Saran it was not clear as to whether any serious danger is looming large over the appellant and neither any previous incident with the appellant has been reported nor any threat is apprehended on any other members of the family. Obviously the above inference of the licencing authority results from his own assessment of threat perception by the licencing authority and the same can not be disputed as it is he who has been vested with the power as licencing authority to assess the need of licence to individual by the indepent application of mind. It is seen that the learned D.M. has recorded the reasons for his conclusion that the appellant does not have any threat perception on the basis of report of S.P. Saran as in that report nothing has been mentioned about any untoward incident to the the appellant leading to believe him that there is any threat of safety and security to the appellant. Certainly this finding of D.M. Saran as licencing authority can not be termed as arbitrary and illegal. Thus, I find that the learned D.M. saran has passed detailed and reasoned order having no scope of interference.

Accordingly, the impugned order is upheld and this appeal being devoid of any merit is dismissed.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.