

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 19/2016
Baidyanath prasad
Vrs.
The State of Bihar
ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 08.08.2014 whereby and whereunder the appellants application for grant of Arms licence with respect to Revolver/Postol/Rifle has been rejected.


The brief facts of the case are that appellant Baidyanath Prasad S/o Badari Prasad, R/o Bhagwan Bajar, P.S.-Bhagwan Bajar, 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. Saran which was sent vide letter No. 3562/confi. Dt. 02.11.12. 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 08.08.2014 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 Hotel business and there is Lodge named Mahavir Lodge. He also argue that the licence of Gun and Revolver existing in the name of his father be transferred to him. The learned counsel further submitted while assailing the impugned order of D.M. Saran, that the learned D.M. wrongly held that in the meeting of screening committee held on 07.08.2014 on the eve of Chapra Legislative Assembly Election 2014 Model code of conduct was in force as such it was decided upon not to grant/transfer arms licence. He further submitted that it was wrongly held that as his father is able to handle arms available with him he has no need of licence. 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 wholly 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. In fact arms licence are normally issued by the licencing authority on his subjective satisfaction. In the instant case it is quite obvious that the D.M. Saran acting as licencing authority passed a reasoned 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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