

**IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA**

Arms Appeal No. 215/2011

Munmun Kumar ... .. Petitioner

Vs

The State of Bihar ... .. Respondent

**ORDER****18.3.2013**

The instant appeal petition is directed against the impugned order passed by District Magistrate, Saran on 4-12-2009 in Case No.105/2009 whereby and whereunder the appellants application for grant of an arms licence for a DBBL Gun was rejected.

2. The brief facts of the case are that the appellant Munmun Kumar s/o Harehwar Prasad Singh, r/o Vill-Bikrampur, PS Marhowrah, District Saran filed an application before DM Saran for grant of an arms licence for a DBBL Gun. Thereafter SP Saran sent recommendation vide letter No. 644/confi. Dated 27.2.2009. Then the DM Saran initiated a proceeding vide case No.105/2009 and appellant was directed to be present for hearing in the matter. The learned Collector heard the appellant and found that the appellant wants to get licence only with a purpose that as his father was an arms licencee and as he became old and poor in health, he could get the arms transferred in his name. But the DM rejected the application vide order dated 22.12.09 on the ground that the appellant failed to produce any evidence or logic relating to his perception of insecurity. Feeling aggrieved by the said order of the DM Saran the appellant preferred this appeal case before this Court.

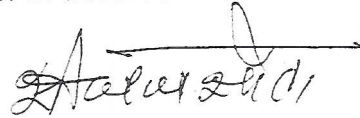
3. Heard the parties. The learned counsel appearing on behalf of the appellant submitted that the father of the appellant has become an old man and he wants to transfer his Arms to the appellant and this has necessitated the appellant to have proper licence granted by the Licencing Authority and the

appellant submitted application for the same. The local police as well as SP sent recommendation to this effect that there is absolutely nothing against the appellant. He further argued that the learned DM did not consider the report of police in totality rather he considered only one aspect while rejecting the application. He further submitted that the age of the father of the appellant which is going to reach superannuation was to be considered but the DM overlooked this also. He also pointed out that earlier two dacoities were committed in his house and it is on this ground that arms licence was granted to the appellant's father and still there is serious threat to life and property and keeping of fire arms is most essential for his safety otherwise life and property would be in danger. The learned counsel lastly prayed that the impugned order of DM be set aside and he be directed to issue licence in favour of the appellant.

5. The learned APP appearing on behalf of the DM Saran submitted that the learned Collector was not convinced about threat to his life and property hence he refused to grant licence so there is no illegality in the said order.

6. The applicant already has a licenced gun in his house/family in the name of his elderly father. There has not been any report of misuse by him or by his father. If the same gun remains in the family/house under the licence of the applicant, there appears to be no substantial difference. When the father/licencee becomes old and cannot handle the gun for protection of life and property of the family, it becomes a burden and he cannot sale it easily like any other commodity to person having no licence. If one member of the family requires the gun, it is not necessarily meant for his protection only and not for other members of the family, and in any case the property sought to be protected normally belong to the family as a whole. A gun is a valuable property, it is but naturally that the son would like to inherit it as any other property when the appropriate time arrives. In my opinion, one should not be very stingy in such matter. However, grant or refusal of licence to a large extent depends on the subjective satisfaction of the Licensing Authority- the District Magistrate. Had I been a District Magistrate, I

would have most probably granted the licence but I do not wish to impose my subjective satisfaction to the District Magistrate. Even then there is a ruling to the effect that "The Licencing Authority refusing the licence is bound to give reasons, which in view of section 14, could only be any one or more of those enumerated in the section. Refusal on a ground not found in that provision would be illegal" [Ram Khelawan v State AIR 1982 All.283] . The reason cited for refusal to grant licence can not be clearly correlated with the grounds given in section 14, hence the impugned order is set aside and the case is remanded to the District Magistrate for reconsideration and fresh order in accordance with the law.



(C. Lalsawta)

Commissioner, Saran Division, Chapra .