

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 240/2015
Hemant Kumar Sharma
Vrs.
D.M. Saran
ORDER

09.01.2016 - The instant appeal application is directed against the impugned order passed by D.M. Saran in Arms case No. 57/2015 on 13.08.2015 whereby and whereunder the application for grant of an arms license to the appellant was rejected.

The brief facts of the case are that the appellant Hemant Kumar Sharma, S/o Dineshwar Sharma, R/o Balmukund Das ka Mathia, P.S.-Manjhi, Dist-Saran filed an application before D.M. Saran, the licensing authority for grant of arms license for Pistol/Revolver. Thereafter, as usual a police report was called for and the said report was sent by S.P. Saran vide letter No. 1546/confi. Dt. 03.04.2015. Then a notice was issued to the appellant for hearing on his application. The appellant appeared and pleaded his case but the learned D.M. on finding that no specific recommendation has been made by the S.P. Saran regarding the grant of license, he held that there existed no threat to life and property to the appellant and he rejected the application for grant of arms licence vide order dt. 13.08.2015. Feeling aggrieved by the said order of D.M. Saran, the appellant has preferred this appeal before this Court.

. Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the appellant is a reporter of local daily "Prabhat Khabar" and he has to move frequently for news collection as such there remains constant threat to his life and property so he needs an arms license for his safety. He further submitted that the learned D.M. simply held that no specific recommendation has been made by S.P. Saran regarding the issuance of license as such he refused to grant license to the appellant without considering the fact that forwarding of report of SHO by S.P. Saran itself should have been taken as recommendation for grant of license. He also argued that it appears from the refusal order of D.M. that the appellant can only become fit for seeking license when some kind of untoward incidents happens with him. He lastly submitted that the impugned order of D.M. Saran is fit to be rejected.

The learned A.P.P. appearing on behalf of the D.M. Saran, submitted that the impugned order is valid and proper in view of the fact that the said order has been passed keeping in view the conditions contain in the letter issued regarding the grant of license by the Govt. of India v-11016/16/2009, dt. 31.03.2010 which has been circulated by the Home(police) deptt. Govt. of Bihar, Patna.

Considering the facts and circumstances of the case, material available on records and on perusal of the impugned order as well as the pleadings forwarded by the learned counsel for the parties, it is seen that the appellant's application for grant of arms license has been rejected by the learned D.M. mainly on the ground that no specific recommendation for grant of the same has been recommended by S.P. Saran besides no untoward incident with the appellant has also been taken place in the past. I find that this

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observation and approach of the D.M., the licensing authority seems to be inappropriate in view of the fact that threat perception to life and security of individual needs to be assessed independently so as to arrive at correct finding regarding requirement of an arms license.

Thus, for the aforesaid reason the impugned order of the D.M. Saran dated 13.08.15 is set aside and the case is remitted back to D.M. Saran to pass afresh order after making fresh assessment of threat, if any, to the life and property of the appellant.

This appeal petition is disposed of, accordingly.

Dictated and Corrected by me.

2-1-16
Commissioner,
Saran Division, Chapra

2-1-16
Commissioner,
Saran Division, Chapra