

In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 239/2015

Dharmendra Kumar Singh

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. 31/2015 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 Dharmendra Kumar Singh S/o Sri Ram Singh, R/o Vill-Salempur, P.S.-Manjhi, Dist-Saran filed an application before D.M. Saran, (the licensing authority) for grant of arms license for Revolver/Pistol. Thereafter, as usual, a police report was called for and the said report was sent by S.P. Saran vide letter No. 472/confi. dt. 23.01.2015. This led to issuance of a notice to the appellant vide memo No. 512 dt. 04.08.2015 directing the appellant to appear in person for hearing in the case. The appellant appeared before D.M. and pleaded that as his house is located on the bank of sarayu river where many criminal incidents have been taken and being a public representative (member of Zila Parishad) has to move frequently in the area, there occurs constant threat to his life and threat from his political opponents. However, the learned D.M. on finding that neither the SHO, Manjhi nor the S.P. has mentioned about any specific incidents or specific recommendation, he rejected the said application of the appellant vide order dt. 13.08.2015. Feeling aggrieved by the said order, 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 being a public representative and a seating Zila Parishad member he has to move frequently in his area which is highly infested by criminals and this appellant has to live in constant fear. He also submitted that there are large numbers of political opponents who have grudge with appellant and have threatened him in the past. So the appellant faces constant threat to his life and property. 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 this no untoward incident with the appellant has also been taken place in the past. I find that this 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 an individual needs to be assessed independently keeping in view the reasons cited for the requirement of an arms license so as to arrive at correct findings regarding need 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.

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2-1-16
Commissioner,
Saran Division, Chapra

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Commissioner,
Saran Division, Chapra