

**In The Court of Commissioner, Saran Division, Chapra**

**Arms Appeal No. 130/16**

**Sumitra Devi**

**Vrs.**

**The State of Bihar**

**ORDER**

The instant appeal is directed against the impugned order passed by District Magistrate, Saran on 11.02.16 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 appellant Sumitra Devi S/o Late Vishwa Mohan Singh, R/o Vill- Goraipur, P.S.-Awtarpur, Dist-Saran filed an application before the licencing authority, D.M. Saran for grant of an Arms license. Thereafter, a report was called for from S.P. Saran which was sent vide letter No. 2182/confi. dt. 09.05.2015. 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 11.02.16 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 husband of the appellant died on 22.09.2011 who was in possession of a licence for an N.P. Bore Rifle and the said gun has been deposited with an arms dealer. He also stated that the appellant like her late husband is a contractor and she is engaged in construction work going on in Garkha, Parsa and Maker and the said areas are in complete control of Maoist. He further submitted that she has to carry cash for payment of labours at construction site and she always felt insure about his life and property. He further submitted that the learned D.M. has erred and not applied his mind in this regard for grant of licence to the appellant so that he could get transferred the arms held by her late husband. He also argued that the learned D.M. rejected his arms licence application that there is no threat perception of life to the appellant or appellant family members. He further submitted that the appellant filed an application for the grant of the licence as it was necessitated to get transfer of the arms standing in the name of his father. 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 the 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 not correct in holding that there is no threat of security and safety to the appellant and she wants licence for status symbol 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 after careful assessment of the needs for arms shown by the appellant. It is seen from the record that the appellant being a lady is engaged in Govt. contract work and at present her work is going on in several blocks of the district which are Maoist affected. She has to move frequently at those sites for making payment to the labours and her other staff and in course of her journey she faces danger to her life at the hands of criminals. In fact the case of the appellant is somewhat different than the other general cases for request of grant of arms licence. The appellant's case certainly needs reconsideration. Furthermore, after the death of husband of appellant, she has to rear her children from the income she earns from contract business and if any untoward incident happens to her, the very survival of her family would be threatened.

Thus, for the aforementioned reasons, the impugned order of D.M. Saran is set aside and the case is remitted back for reconsideration and to pass a fresh order in accordance with law.

With the abovementioned observations and directions, the instant appeal petition is disposed of.

Dictated and Corrected by me.

Commissioner  
Saran Division, Chapra.

Commissioner  
Saran Division, Chapra.