

In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 59/17

Pushpa Devi

Vrs.

The State of Bihar

ORDER

The instant appeal petition is directed against the impugned order passed by D.M. Gopalganj in New Arms Licence case No. 37/2016 on 09.02.2016 whereby and whereunder the appellant's application for grant of N.P. Bore Rifle/Revolver/Pistol has been refused.

The brief facts of the case are that Smt. Pushpa Devi W/o Harkesh Singh R/o Vill-Lachwar, P.S. Thawe, Dist-Gopalganj filed an application before the licencing authority, the D.M. Gopalganj for issuance of licence with respect to Rifle/Revolver/Pistol. Thereafter, a report was called for from S.P. Gopalganj. The said report was sent to the D.M. Gopalganj vide memo No. 2287/conf. dt. 31.08.2015. Thereafter, the learned D.M. heard the appellant and finally vide order dt. 09.02.2016 rejected the prayer of the appellant. Feeling aggrieved by the said order, the appellant 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 argument submitted that the impugned order of D.M. Gopalganj is not sustainable in law for the reason that the same is not a speaking and reasoned order. He further submitted that, the appellant is a setting Mukhia of Gram Panchayat Lachwar and her work has also been appreciated by the Hon'ble C.M. during his visit to the said panchayat to get the first hand knowledge of the development work being executed in the said panchayat. He further submitted that appellant faces constant threat from her rivals as such she needs an arms for her own protection as well as protection her property. The learned counsel further argued that even the police also reported in her favour for grant of licence despite that the learned D.M. did not consider her case properly and in a routine manner rejected her application. The learned counsel further quoted the various rulings of the Hon'ble High Court that licence can not be refused for lack of threat perception. The learned counsel lastly submitted that as the impugned order is improper and beyond the relevant provisions of the Arms Act, the said order is fit to be set aside and in turn this petition be allowed.

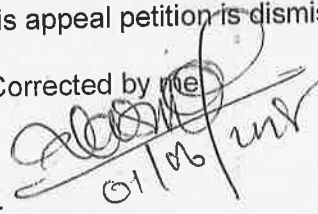
The learned A.P.P. appearing on behalf of the state, while opposing, the arguments advanced by the learned counsel for the appellant, submitted that assessment of threat perception by the licensing authority has been made an essential condition for consideration of grant of an arms license as per the 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. Gopalganj 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

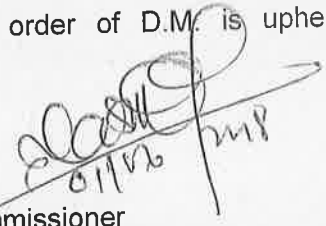
appellant's application for grant of licence has been refused on the ground that there was no specific report regarding threat to his life and property in the police report. It appears that the learned D.M. is correct in holding that there is no threat of security and safety to the appellant and his this finding was based on the report of S.P. Gopalganj. 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. Gopalganj acting as licencing authority has considered all the relevant facts of the case before arriving at the decision that the appellant has no threat to her life and property. It is also seen that the appellant has failed to cite substantial reasons for the need of licence. The only plea taken by the appellant for the need of licence is that she being a Mukhia she faces threat to her life and property from the persons politically inimical to her. But in support of her said plea she failed to cite any specific instance of any incident occurred in past due to which her life was in danger. Merely being an elected Mukhia does confer any right on the person or make her entitled for an arms licence.

For the aforementioned reasons, the impugned order of D.M. is upheld. Accordingly this appeal petition is dismissed for want of merit.

Dictated and Corrected by me



Commissioner
Saran Division, Chapra.



Commissioner
Saran Division, Chapra.