

In The Court of Commissioner, Saran Division, Chapra

Arms Appeal No. 95/2017

Dheeraj Pandey

Vrs.

The State of Bihar

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Gopalganj on 03.03.2017 in New Arms case No. 17/2017 whereby and whereunder the appellant's application for grant of Arms licence with respect to D.B.B.L. Gun/N.P. Bore Rifle has been rejected.


The brief facts of the case are that appellant Deeraj Pandey S/o Sri Kali Pd. Pandey, R/o Vill-Bhoj Chhapar (Ramjita), P.S.-Salempur, Dist-Gopalganj filed an application before the licencing authority, D.M. Gopalganj for grant of an Arms license. Thereafter, a report was called for from S.P. Gopalganj which was sent vide letter No. 6886/confi. dt.17.11.2016 in which no specific recommendation made rather the said report was sent as a routine exercise. 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 order passed on 03.03.2017 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 said that the impugned order is cryptic and arbitrary in nature and in fact the same has been passed in mechanical way which is misconceived also. He further assailed the impugned order and submitted that the said order is not a reasoned and speaking order because no convincing reasons have been assigned for the rejection of the application which is also against the relevant section of the Arms Act. The learned counsel further said that the learned D.M. Gopalganj has not appreciated that there is nothing adverse against the appellant in the police report and the appellant is able to handle the arms for which he had applied. The learned counsel further drew the attention towards letter No. 6886/c dt. 17.11.2016 of the S.P. Gopalganj in which nothing adverse has been reported against the appellant and reference made to the Kuchaykot P.S. case No. 91/82 is no way related with the appellant rather the same was related with his father in which Court has acquitted him. He lastly said that as the appellant and his family members are facing threats, terror, perceiving grave and imminent threats by the anti-social elements and criminals to the life and property therefore, arms licence is badly needed to the appellant for protection of life and property. He lastly prayed that the impugned order of D.M. Gopalganj be set aside and this appeal 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. He also said that 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 the arguments 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 report sent by police. In fact arms licence are normally issued by the licencing authority on his subjective satisfaction regarding the threat perception of the person seeking arms licence. But in the instant case it is quite obvious that the D.M. Gopalganj while rejecting the prayer of grant of licence of the appellant, simply discussed about the criminal cases in which father of the appellant was made accused. Besides that he also held that his father holds arms licence as such the appellant does not have any threat perception so that prayer of appellant could not be considered. I do not find any merit in such findings of the learned D.M. because of the fact that safety and security of the appellant can not be transferred on other family members if the appellant is apprehending some threat perception anyhow. I find that the case of the appellant should have been considered independently keeping in view the threat perception of the appellant. In fact, it has been held by Hon'ble High Court that mere apprehension is enough for the grant of licence provided the applicant is not otherwise unfit for such grant of licence. It is an admitted fact that the appellant is not involved in any criminal offence in the past as such his case should not have been rejected merely on the ground that his father holds arms licence.

For the aforementioned reasons, the impugned order of D.M. Gopalganj is not sustainable hence the same is set aside. The case is remitted back to D.M. Gopalganj the licencing authority for reconsideration and to pass a fresh order in accordance with law.

With the abovementioned observation and direction this appeal petition is disposed of.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.