

**In The Court of Commissioner, Saran Division, Chapra**  
**Arms Appeal No. 118/2016**  
**Deonandan Rai**  
**Vrs.**  
**The State of Bihar**  
**ORDER**

30.6.17

The instant appeal is directed against the impugned order passed by District Magistrate, Saran, as contained in memo No. 167/सु० न्यायालय/ dt.25.02.16 whereby and whereunder the application dt 26.08.13 of the appellatant for grant of arms license of Revolver/Pistol has been rejected.

The brief facts of the case are that appellatant Deo Nandan Rai S/o Late Basudeo Rai, R/o Vill-Bishahi, P.S.-Dariyapur, Dist-Saran filed an application before the licensing authority, D.M. Saran for grant of Arms license. Thereafter, a report was called for from S.P. which was sent vide letter No. 3047/confi. Dt. 30.06.2015 and then the entire record was sent in the Court of D.M. for hearing. The case was heard on 18.02.16 in presence of the appellatant and the licensing authority, the D.M. Saran on finding that there was no specific report regarding the threat of life to the appellatant or his other family members, he finally concluded that the appellatant seeks arms license only for maintaining his status symbol and finally rejected the said application of the appellatant.

Feeling aggrieved by and dissatisfied with the aforementioned refusal order, contained in memo No. 167 dt. 25.02.16, the appellatant has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellatant, 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 appellatant being a whole sale dealer of cement and asbestore sheet and has to collect money from the retailers as such he needs an arms license for his protection but the learned D.M. without considering the report of police officer, in which nothing adverse was reported, against the appellatant, refused to grant the license. He also argued the learned D.M. based his decision mainly on the ground of the letter No. 3026 dt. 13.04.2010 issued by the Home Deptt. Govt. Of Bihar, Patna in which lack of evidence regarding threat perception is an important criterion for refusal to grant license. The learned counsel further submitted that the Hon'ble High Court, in a series of decisions, held that lack of evidence regarding threat perception can not form a ground for refusal of arms license under section 14 of the Arms Act-1959. The learned counsel lastly said that the impugned order of D.M. Saran is illegal as such the same may be set aside and in turn this appeal 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 appellatant, 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 it is on that ground the application has been rejected.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties, it is quite obvious that the appellant's application for grant of an arms license with respect to Revolver/Pistol has been rejected by D.M. Saran solely on the ground that there was no specific report regarding the threat of life and property to the appellant in the police report thereby enabling the licensing authority to hold that the license is being obtained only for maintaining status symbol. Although, the learned counsel for the appellant strongly opposed this conviction of the licensing authority and also placed reliance on the series of judgment of Hon'ble High Court wherein it has been categorically held that lack of threat perception should not be the only criterion for refusal of license but even after that the licensing authority has not considered this important observation of the Hon'ble High Court. However it is seen that the learned D.M. has passed the order in a casual manner without considering all aspects of the claim of the appellant in its totality so far as the threat perception to the appellant is concerned. In fact even the observations made by Hon'ble High Court in large numbers of cases relating to refusal of license has been ignored completely. It is also seen that the learned D.M. has simply relied on the police report for ascertaining the threat perception of the appellant and finally held that the appellant needs license only as a mark of status symbol. This findings of D.M. as a licensing authority seems to be improper. In fact he should have taken into consideration the observation made by the Hon'ble High Court to arrive at reasonable and just conclusion while rejecting the claim of the appellant for grant of arms license as appellant is apprehending threat to his life and property as well as for his safety and security in view of his frequent movement alone in the rural areas for his business purposes.

In that view of the matter the impugned order of D.M. Saran dt. 25.02.2016 is not sustainable and hence the same is set aside and case is remitted back to D.M. Saran, the licensing authority for fresh consideration regarding grant of license to the appellant by independently ascertaining the threat perception to the appellant by obtaining fresh report from local SHO of the area of residence of the appellant and then pass order in accordance with law.

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

Dictated and Corrected by me.

  
20/06/2017  
Commissioner  
Saran Division, Chapra.

  
20/06/2017  
Commissioner  
Saran Division, Chapra.