

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3229 of 2024

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Raj Kishore Singh Late Dhenuki Singh Resident of Village- Bararhi, P.O.-
Bhadwar, P.S.- Bagengola, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector of District, Buxar, District-Buxar.
4. The Superintendent of Police Buxar, District-Buxar.
5. The Dy Superintendent of Police, Dumraon, District-Buxar.
6. The S.H.O., Bagengola Police Station, District,Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Mohan Kumar Singh
For the Respondent/s : Mr. Kumar Alok, Standing Counsel 7

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 24-04-2026

1. The petitioner has preferred this writ application for quashing the order dated 20.06.2023 passed by the Divisional Commissioner, Patna in Arms Appeal No. 39 of 2021 whereby the appellate authority has affirmed the order dated 25.11.2019 passed by the District Magistrate, Buxar in Arms Case No. 205 of 2011 rejecting the application of the petitioner for grant of arms licence. The petitioner has further prayed for a direction upon the respondent-licensing authority to grant arms licence in his favour.

2. The brief facts of the case is that the petitioner had applied for grant of arms licence in the prescribed format in the



year 2011 before the District Magistrate, Buxar. The said application was forwarded for police verification pursuant to which the officer-in-charge of Bagengola Police Station conducted enquiry and submitted his report on 03.02.2015 stating therein that the petitioner has sufficient reason for grant of arms licence and for protection of his life and property recommended that the petitioner may be issued arms licence for N.P. bore rifle. Thereafter, the Superintendent of Police vide letter dated 740 dated 24.02.2015 forwarded the police verification report along with all relevant documents to the District Magistrate, Buxar stating therein inter alia that no adverse record was found against the petitioner. It was further noted that the petitioner is engaged in agricultural activities and frequently travels to Buxar carrying substantial cash giving rise to reasonable apprehension regarding his personal safety and property. Further case of the petitioner is that despite favourable police verification report, positive recommendation and admitted absence of any criminal antecedent, the District Magistrate, Buxar rejected the application of the petitioner vide order dated 23.02.2016 on the ground that the petitioner did not have threat perception and therefore there existed no sufficient reason for grant of arms licence. Reference has been made in



that connection to the direction of Ministry of Home vide letter no. 3026 dated 31.04.2010.

3. Aggrieved thereby the petitioner preferred Arms Appeal No. 163 of 2016 before the Divisional Commissioner, Patna. The Arms Appeal was decided by the learned Divisional Commissioner, Patna vide its order dated 29.01.2019 / 29.03.2019 and the application for arms license of the petitioner was remanded back to the District Magistrate, Buxar with a direction to take a fresh decision in the light of Section 13 & 14 of the Arms Act, 1959, judgments of the Hon'ble High Court in respect of issuance of arms license and various directions of the State government regarding issuance of arms license. The Divisional Commissioner, Patna thus directed the District Magistrate, Buxar to decide the matter after hearing the appellant / petitioner and after calling an up-to-date police report regarding the character of the petitioner and to take a decision accordingly.

4. After remand, a fresh police verification report was called for by the District Magistrate, Buxar. The police report was submitted through Superintendent of Police, Buxar vide letter no. 3608 dated 01.09.2019 having no adverse entries against the petitioner. The report further stated that petitioner's



uncle had been killed by naxalites in the year 1987 in respect of which an F.I.R. was lodged at Bagengola Police Station. The annual income of the petitioner is approximately Rs. 4,00,000/- and if licence is given to the petitioner the petitioner does not pose any threat to social harmony or public peace.

5. Despite favourable police verification report, the District Magistrate, Buxar once again rejected the petitioner's application vide order dated 25.11.2019 passed in Arms Case No. 205 of 2011. The rejection primarily was based on the ground that the incident referred to in the police report had occurred nearly twenty years ago and that the S.H.O., Bagengola Police Station has reported no existing or imminent threat to the petitioner from any quarter. The petitioner failed to establish any present threat perception to his life and property. Accordingly, upon consideration of the police report, the petitioner's application was rejected taking help of Section 14(1)(b)(ii) of the Arms Act, 1959. In the rejection order it was also observed that issuance of arms licence without specific justification may lead to unnecessary proliferation of arms thereby adversely affecting public peace and public security. Aggrieved thereby, the petitioner preferred Arms Appeal No. 39 of 2021 before the Commissioner, Patna Division, however, the



said appeal also came to be dismissed vide order dated 20.06.2023 on the same and similar ground without proper appreciation of materials available on record and the relevant provisions of the Arms Act including the laws laid down by the Hon'ble High Court.

6. Learned counsel for the petitioner argued that the impugned orders are arbitrary, illegal and contrary to the provisions of the Arms Act and the precedence. It is contended that the authorities have passed the orders in a mechanical manner without proper application of mind on the ground of absence of threat perception and on the ground that the petitioner failed to establish any present danger to his life and property. The rejection is founded on vague and general consideration of "public safety" and "public peace". Mere non-existence of imminent current threat cannot by itself be a ground to disentitle an applicant for grant of arms license. The statutory scheme does not mandate proof of imminent danger rather it requires reasonable justification from grant of licence.

7. It is further submitted that findings recorded by the District Magistrate, Buxar as affirmed by the appellate authority that the petitioner should not be permitted to have a gun licence because there would be threat to "public peace" and "public



safety” is not based on any evidence. The licensing authority has assumed that as if the petitioner would get arms licence, he will disturb “public peace” and safety whereas the authorities have failed to appreciate that the petitioner has a clean antecedent, no criminal case is pending against him and no adverse material has been found during police verification. The police verification report clearly records that the petitioner is not likely to pose any threat to public peace and social harmony. It has also been noted therein that petitioner’s uncle was killed by naxalite. Despite existence of such favourable materials on record, the authorities have arbitrarily rejected the petitioner’s application for grant of licence.

8. It is next argued that the petitioner is engaged in agricultural activities and frequently travels to Buxar while carrying substantial amount of cash in connection with his occupation thereby exposing himself to potential risk and giving rise to reasonable apprehension regarding his life and personal safety.

9. Learned counsel relies upon a judgment of this court in the case of **Manish Kumar vs. The State of Bihar through the Commissioner, Patna Division & Ors reported in 2015(4) PLJR 212.**



10. Per contra, learned counsel for the respondents argued that since the petitioner is not having any threat perception, the application of the petitioner for grant of arms licence has rightly been rejected by the District Magistrate, Buxar. It is further contended that considering the requirement of maintaining “public peace” and ensuring “public safety”, the licensing authority has rightly rejected the petitioner’s application for grant of arms licence. The appellate authority has rightly affirmed the order and no interference is warranted under writ jurisdiction.

11. I have heard learned counsel for the parties and have gone through the materials on record including the impugned orders.

12. The Divisional Commissioner, Patna while remanding the matter back before the District Magistrate, Buxar at the first instance on 29.01.2019 / 29.03.2019 directed the District Magistrate, Buxar to decide the petitioner’s application for licence in light of Section 13 & 14 of the Arms Act, 1959, judgments rendered by the Hon’ble High Court in respect of issuance of arms license and Government’s direction in this regard. Section 13 of the Arms Act prescribes the ways and means for grant of licence whereas Section 14 of the Arms Act



talks about refusal of licence.

13. For ready reference, Section 14 of the Arms Act is quoted hereinbelow:-

14. Refusal of licences.-

(1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant-

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,-

(i) where such licence is required by a person whom the licensing authority has reason to believe-

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition; or

(2) to be of unsound mind; or

(3) to be for any reason unfit for a licence under this Act; or

(ii) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for



such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

14. Section 14(1)(b)(ii) of the Arms Act does not give unlimited discretion to the licensing authority to exercise his discretion on the basis of his subjective satisfaction. The exercise of discretion must be judicious considering the attending facts and materials available on record, particularly when the discretion given to the licensing authority is not unlimited and the grounds for rejection of licence have explicitly been given in the Act.

15. In the present case the District Magistrate, Buxar has rejected the application of the petitioner for the second time on 25.11.2019 primarily on the ground that issuance of licence to the petitioner may create unnecessary arms proliferation affecting “public peace” and “public safety”. The Arms Rules, 2016 (hereinafter referred to as the “2016 Rules”) came into force and has been enforced prescribing the guidelines which are to be followed by the licensing authority while proceeding to consider grant or refusal of licence. Rule 12 of 2016 Rules along with sub-rule (1) and sub-rule (3) are relevant for the purpose of the present case inasmuch as the present case relates



to grant of licence for permissible arms and ammunition specified in Category- 3 of Schedule- 1 of the said Rules. The same is reproduced hereinbelow for ready reference:-

“12. Obligations of licensing authority in certain cases. -(1) Save as otherwise provided in the Act, every licensing authority granting a licence in Form III to an individual for the restricted or permissible arms or ammunition as specified in category 1(b) and 1(c) or category III respectively in Schedule I, shall have due regard to the application of norms specified in sub-rules (2) and (3).

(3) For grant of a licence for the permissible arms or ammunition specified in category III in Schedule I, and without prejudice to the provisions contained in clause (a) of sub-section (3) of section 13, the licensing authority, based on the police report and on his own assessment, may consider the applications of-

(a) any person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and/or property; or

(b) any dedicated sports person being active member for the last two years, of a shooting club or a rifle association, licensed under these rules and who wants to pursue sport shooting for target practice in a structured learning process; or

(c) any person in service or having served in the Defence Forces, Central Armed Police Forces or the State



Police Force and has genuine requirement to protect his life and/or property.”

16. Under the third schedule along with the relevant format meant for grant of license also indicates that apart from the conditions for grant of license under the Act and the Rules, the information given in the said forms have to be considered. The relevant form requires an applicant to clearly mention the purpose for which the license is required.

17. As per sub rule 3(a) of Rule 12 extracted hereinabove the licensing authority based on police report and on his own assessment may consider an application of a person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and / or property. Thus, it is clear that while deciding the application for grant of licence the licensing authority apart from the conditions mentioned in Section 13 & 14 of the Arms Act has to consider the provisions of Rule 12(3)(a) also where the very purpose of the acquisition of arms has to be assessed by the licensing authority on the basis of a police report or on his own assessment.

18. In the present case the petitioner in Form-A of Schedule-III has disclosed his profession as “agriculture” and has also mentioned the need for license as “threat to life and property”.



19. The police report of Superintendent of Police, Buxar submitted before the District Magistrate, Buxar dated 24.02.2015 at the first instance said that there was no adverse entry against the petitioner. The petitioner is engaged in agricultural activities in relation to which he has to travel frequently to Buxar having substantial amount of money which gives rise to threat to his life and property and accordingly forwarded the application form of the petitioner with the aforesaid recommendation for necessary action before the District Magistrate, Buxar.

20. After remand, by the Divisional Commissioner, Patna in the year 2019, another police report was submitted specifically stating therein that if arms licence is given to the petitioner, the same would not create any law and order problem. The aforesaid report of police authority along with forwarding letter of Superintendent of Police, Buxar dated 01.09.2019 is the part of present writ application.

21. In the present case, two police reports were submitted at different time. The first one was submitted in the year 2015 with a positive recommendation that the petitioner can be issued gun licence for protection of his life, property and security.

22. This court is conscious of the prevailing reality that



crimes rates are raising and it is neither feasible nor practicable for the state to provide security to every citizen. It is true that right to possess or carry firearm is not a fundamental right but a statutory right governed by the provisions of Arms Act, 1959 and the Rules, however, it cannot be lost sight of the fact that right to life under Article 21 of the Constitution of India has been interpreted to include within its fold the right to live with dignity, personal autonomy and a sense of security over one's body and property. The right of an individual to feel secure, to protect his family and property from antisocials and to live without constant apprehension of harm forms an intrinsic part of Article 21 while this does not translate into an enforceable fundamental right to obtain an arms license. Such constitutional values cannot be rendered irrelevant while exercising statutory discretion under the Arms Act.

23. It is relevant to discuss the empirical data as per National Crime Records Bureau (NCRB), Ministry of Home Affairs, Government of India in its publication titled "*Crime in India, 2023*" (Volume-I), under Chapter-1, Table 1A.5 pertaining to special and local laws crimes —crime head- wise and State / UT wise —has furnished data relating to arms related offences. The said statistics reveal that in the State of Bihar, out



of total 3,972 arms related crimes, only 07 incidents involved licensed arms, whereas an overwhelmingly majority of 3,965 cases were attributable to illegal or unlicensed arms. This data clearly demonstrates that the misuse of legally licensed arms constitutes a negligible fraction of the total arms- related offences and the actual threat to public peace and public safety primarily emanates from illegal / unlicensed weapons rather than duly licensed firearms.

24. In the impugned order dated 25.11.2019 the District Magistrate, Buxar while rejecting the application for grant of licence has given the reason that the Superintendent of Police, Buxar has not given his clear opinion and merely forwarded the police report of Sub Inspector of Bagengola Police Station and S.D.P.O., Dumraon and further grant of licence will create unnecessary proliferation of arms adversely affecting “public peace” and “public safety”.

25. The words “public peace” or “public safety” do not mean ordinary disturbance of law and order. Public safety means safety of the public at large and not safety of a few persons only. In such circumstances, a blanket or mechanical denial of arms licence on vague apprehension of public safety without any empirical data and contrary to the two police



reports would not only be contrary to the statutory scheme but would also fail to give due weight to an individual statutory rights. Though the right to carry firearms cannot be directly read into Article 21, consideration of public safety, security and reasonable apprehension must meaningfully inform the decision making process of the licensing authority.

26. In the case at hand the police has taken note of the profession of the petitioner as required under sub-rule 3(a) of Rule 12 of the 2016 Rules and in its first report has recommended for grant of licence in favour of the petitioner considering the nature of his profession. Second police verification report categorically records that the petitioner is not likely to pose any threat to “public peace” or “public safety”.

27. The Superintendent of Police, Buxar forwarded the positive report of the concerned Police Station as well as S.D.P.O., Dumraon to the District Magistrate, Buxar without any adverse comment which goes to show that the Superintendent of Police, Buxar had no objection for issuance of arms licence to the petitioner, as such, the ground taken by the licensing authority in its order that the Superintendent of Police, Buxar has just forwarded the police report without his comment is inconsequential. The licensing authority does not possess



unlimited discretion, a free hand to apply a straight jacket formula in every case while rejecting the request for grant of licence rather it is incumbent upon it to consider the nature of profession, trade calling for the purpose of grant of licence which situation has now been taken care of under sub rule 3(a) of Rule 12 of 2016 Rules.

28. It is incumbent upon the licensing authority to consider the attending facts and circumstances of each case independently taking into account the information provided by the person seeking arms licence in Form-A, the police report and the own assessment of licensing authority. The assessment of licensing authority must be based upon cogent material and it is not subjective satisfaction of the authority. The discretion must be judicious and should not be contrary to the materials available on record.

29. In view of the above mentioned discussions on facts as well as law, the impugned order dated 25.11.2019 and the appellate order dated 20.06.2023 passed by District Magistrate, Buxar and Divisional Commissioner, Patna respectively are set aside.

30. Since the petitioner is pursuing his case for grant of licence since 2011 i.e. now for the last fifteen years, as such, a



direction is issued to the District Magistrate, Buxar to consider the grant of licence in favour of the petitioner in the light of the aforesaid discussions within a period of two months from the date of receipt / production of a copy of this judgment.

31. With the aforesaid observation and direction, this application is allowed.

(Anil Kumar Sinha, J)

praful/-

AFR/NAFR	AFR
CAV DATE	19-02-2026
Uploading Date	24-04-2026
Transmission Date	NA

