

(2015) 09 DEL CK 0251
In the Delhi High Court
Case No : Writ Petition (C) 8893 of 2015

Nirankar Rastogi

APPELLANT

Vs

Joint Commissioner of Police and Others

RESPONDENT

Date of Decision : 18-09-2015

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2015) 09 DEL CK 0251

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : A.R. Singh and Prashant Singh, for the Appellant; Kush Sharma, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.

Cm No. 19992/2015 For Exemption

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) 8893/2015

3. The petition impugns the order dated 17th March, 2015 of the Joint Commissioner of Police rejecting the application of the petitioner for an armed licence as well as the order dated 27th May, 2015 of Hon''ble Lt. Governor dismissing the appeal preferred by the petitioner thereagainst.

4. The petitioner claims to be a bullion dealer, who owing to the exigency of his business, is required to carry cash as much as of Rs. 20 lakhs at times and applied for armed licence claiming threat to his life.

5. It is not as if the authorities whose orders are impugned have not considered the aforesaid aspect. They have, after consideration, not found any perception of

threat to the petitioner. The order of the Appellate Authority records that the ground on which the petitioner claims to have perceived threat to himself were verified and it was found that the petitioner had picked a quarrel with some persons on the issue of motorcycle parking and Hon"ble the Lt. Governor held that the same does not amount to a threat perception.

6. The petitioner, in the petition itself relies on the judgments of the same learned Single Judge of this Court in Vinod Kumar Vs. State 2014 (2) RLR 590 and Sahil Kohli Vs. Additional Commissioner of Police where, on the plea of threat perception, the order of refusal of licence was quashed and issuance of armed licence ordered.

7. I may notice that else the consistent view of this Court and other Courts in (i) Sunil Kumar Bharala Vs. State of Uttar Pradesh and Others(2015) 4 ADJ 239 : (2015) 3 ALJ 791 : (2015) 110 ALR 622 : (2015) 4 AWC 3509 ; (ii) Gulab Radhwaj Vs. State of Uttar Pradesh and Others(2015) 4 ADJ 123 : (2015) 111 ALR 81 : (2015) 3 AWC 3238 ; (iii) Dr. Pankaj Tripathi Vs. State of U.P. and Others, (2014) 4 ADJ 115 : (2014) 104 ALR 113 ; and, (iv) Om Prakash Rai Vs. State of U.P., (2014) 4 ADJ 729 : (2014) 3 ALJ 796 : (2014) 4 AWC 3313 has been that a perception of threat is a question of fact which cannot be assessed by the individual himself but can only be assessed by the investigating agencies and it is not the domain of the Writ Court to consider whether a threat perception exists in favour of a particular person or not. I have in Shiv S. Sharma Vs. Union of India (UOI) and Others held that the Court cannot foray into determining whether there is any threat to any individual and the same is purely in the domain of executive functions and that the level scale of perception is subjective; what an impartial person adjudicating with an objective view may perceive as a threat of a lesser level scale, is bound to be a threat of a higher level scale to the threatened person. Similar observations are to be found in Suhaib Ilyasi Vs. Union of India (UOI) and Others where also, it was observed that a person may overreact or over-play the threat and the decision of security agencies and experts in this regard is not to be substituted by the opinion either of the petitioner or of the Court unless it is shown that the decision is wholly arbitrary or perverse and has failed to consider the relevant material produced. The Division Bench of this Court in Shri Ashwini Kr. Chopra Vs. Union of India (UOI) and Others also held that right under Article 21 of the Constitution of India is not absolute and grant of security cover is within the executive domain and it is the executive which is in the best know of when and what sort of security cover be granted to a particular person. It was further held that no one can claim as a matter of legal right to be given a particular security cover.

8. A Division Bench of this Court in Parveen Kumar Beniwal Vs. Govt. of NCT of Delhi and Others(2015) 149 DRJ 434 held that a citizen cannot assert a right to hold a firearm licence on the ground of threat perception and that whether there is a perception of threat to the security of a citizen has to be considered by the licensing authority and not by the Courts. A Division Bench of High Court of

Andhra Pradesh has taken the same view in G. Subas Reddy Vs. State of Andhra Pradesh and Another, (1997) 2 ALD 694(2) : (1997) 1 ALD(Cri) 19 : (1996) 4 ALT 985(1) : (1997) CriLJ 1296 .

9. I have in this regard enquired from the counsel for the petitioner that whether not all residents of this city live under some kind of threat or not and whether on the basis of their own perception, whether all would be entitled to arms licence.

10. The counsel for the petitioner contends that arms licence should be granted to whosoever desires the same. The aforesaid is contrary to the dicta of the Division Bench of this Court in Praveen Kumar Beniwal supra.

11. There is thus no merit in the petition, dismissed.

No costs.