

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5476 of 2015

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Niraj Kumar, son of Sri Nand Kishore Sharma, Resident of village-Derni, P.S. Derni, District- Saran at Chapra.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Chapra.
3. The District Magistrate, Saran at Chapra , District- Saran at Chapra.
4. The District Arms Magistrate, Saran at Chapra, District- Saran at Chapra.
5. The Superintendent of Police, Saran at Chapra, District- Saran at Chapra.
6. The Senior Deputy Collector, District Legal Section, Saran at Chapra, District- Saran at Chapra.
7. The Sub-Divisional Officer, Sonepur, District- Saran at Chapra.
8. The Station House Officer, Derni, District- Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
: Mr. Dhananjay Prasad, Advocate
For the Respondent/s : Mr. Arvind Kumar, SC-13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 21-09-2015

The petitioner seeks direction for grant of licence for carrying 12 Bore DBBL Gun for safety of his life and property for which he had applied in the year 2005, however, no final decision could be taken by the authority till date.

A counter affidavit has been filed on behalf of respondent nos. 3, 4 and 6, however, it is not stated anywhere as to why no decision could be taken by the authorities upon the application filed on behalf of the petitioner even after lapse of about 10 years. The only thing which appears to have been stated is that a letter was written on 22.12.2014 by the Arms Magistrate, Chapra to the Superintendent of

Police, Chapra to send his report in view of the letter dated 31.03.2010 written by the Home Ministry, Government of India to all the concerned.

In my considered view, the authorities have proceeded at a snails pace in this matter without any rhyme and have reason and kept the matter pending for about 10 years without any fault on the part of the petitioner.

The licensing authority was required under Sub-section (2) of Section 13 of the Arms Act after receiving application for grant of arms licence to seek a report from the Officer-in-charge of the nearest police station and such officer was required to send the report within prescribed time. However, the proviso to the aforesaid section further states that where the Officer-in-charge of nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after expiry of prescribed time, without further waiting for the report.

It appears that the report was sought from the police vide letter dated 23.08.2005 itself vide Annexure-2. However, thereafter, no action was taken for about five years and when a letter was received in the year 2010 from the Home Ministry, Govt. of India, then again a report was sought after expiry of four years on 22.12.2014 and reminder was sent on 8.09.2015 after filing of the writ petition on 7.04.2015.

Thus, in my considered view, since the authorities have conducted themselves in a very casual and negligent manner I dispose of the writ application with a direction to the licensing authority to take a decision in the matter in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

While doing so, the licensing authority would be required to peruse the decision of this Court dated 11.08.2015 rendered in **CWJC No.18535 of 2011 (Manish Kumar Vs. The State of Bihar and Ors.) and other analogous matters** regarding applicability of the aforesaid letter of the Home Ministry, Govt. of India and also with regard to lack of producing of any evidence regarding threat perception upon the petitioner and also the other relevant judicial pronouncements, thereafter, he would be obliged to take a final decision in the matter.

Further, in view of the fact that I have already held that the statutory authorities have proceeded at a snails pace and have conducted themselves in a very casual and negligent manner, I find it proper to award exemplary cost, which is assessed at Rs.10,000/-.

Ordered accordingly.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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