

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7937 of 2018

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Rohit Raj, Son of Lukshman Prasad, Resident of Mohalla- Hanuman Nagar
(New Punaichak), Mandal Bhawan, P.S.- Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Patna District- Patna.
2. The Commissioner, Patna Division, Patna, District- Patna.
3. The Collector, Patna, District- Patna.
4. The Senior Superintendent of Police, Patna, District- Patna.
5. The Deputy Superintendent of Police, Secretariat, Patna District Patna.
6. The Station House Officer, Shastri Nagar, Police Station, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Bhakta, Advocate
For the Respondent/s : Mr. Md.Nadeem Seraj -GP5
Mr. Shailesh Kumar, AC to GP5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 07-05-2018

Heard Mr. Suresh Prasad Bhakta, learned

counsel for the petitioner and Mr. Shailesh Kumar, learned AC to
GP-5.

The present Writ application has been filed for
a direction to Respondent no. 3, Collector, Patna to grant licence
of NP Bore pistol/revolver, since his application for such licence is
pending since 2009.

It is submitted by learned counsel for the
petitioner that the petitioner is a partner in a construction company
and for the safety and security of his life and property, the
petitioner submitted an application for grant of NP Bore



pistol/revolver, though, the date of application is not on record. But in spite of the recommendation of police in favour of the petitioner, the application of the petitioner was rejected by the District Magistrate, Patna vide order dated 23.12.2015 passed in Misc. Arms Case No. 09-401/2011 on the ground that there is no cogent reason for issuing licence to the petitioner. The petitioner challenged the order of licensing authority before Respondent no. 3, Commissioner, Patna Division, Patna in Arms Appeal No. 28 of 2016 and the same was disposed of vide order dated 26.04.2016 and the learned Commissioner, Patna Division after citing several judgments of this Court, where it has been held that grant of arms licence cannot be refused on the ground that there is no threat perception to the applicant, remanded the matter back to the District Magistrate, Patna for fresh consideration, as is contained in Annexure-3. It is further submitted by learned counsel for the petitioner that since then, the petitioner's application has not been disposed of by the District Magistrate. However, the petitioner submitted an application in view of remand order of Commissioner on 28.06.2016 before licensing authority, District Magistrate, Patna, Respondent no. 3, as contained in Annexure-4, but till date the licensing authority has not decided the issue.

Learned counsel for the State submits that if



the application has not been disposed of on remand by the licensing authority, District Magistrate, Patna, Respondent no. 3, it will be disposed of within a time frame.

Having heard the learned counsels for the parties, this Court is of the view that though neither under Sections 13 and 14 of the Arms Act, 1959 (hereinafter called the Act) nor under Rule 51 of Arms Rules, 1962 (hereinafter called the Rules) there was any prescription fixing the time for disposal of the application for grant of licence by the licensing authority. However, this Court finding the casual approach of the licensing authority directed for disposal of such applications with in a time frame, in the case of *Dwivedy Surendra (Advocate) Vs. The State of Bihar & Ors.*, reported in 2007(3) PLJR 76, to the effect that in the cases, where the police verification reports have been received by the Licensing Authority, it has to be disposed of within a period of two months and in case of non-receipt of police verification report, the application should be disposed of within a period of four months. Consequently, an advisory was also issued to that effect by the Department of Home, but it appears that the same is not having any impact on the licensing authorities.

However, the legislature while framing Arms Rules, 2016 thought it proper to fix a time frame for submitting



police report and to decide the issue of grant of arms licence. Rule 14 of the Arms Rule, 2016, mandates a time limit for submission of police report i.e., within thirty days from the date of receipt of the application by the concerned Officer-in-Charge of the Police Station. Rule 13 prescribes the time limit for passing speaking order with regard to grant of licence, i.e., within sixty days of the receipt of the police report. Though, Rules 13 and 14 will apply to the application made after enforcement of Arms Rules, 2016, however, in the present case, since the remand order is dated 26.04.2016, hence, it is high time that the slumber of licensing authority, District Magistrate, Patna should break.

In view of the discussions made above, it is expected from the licensing Authority, District Magistrate, Patna that he will dispose of the application of the petitioner being Misc. Arms Case No. 09-401/2011, within a period of eight weeks from the date of receipt/production of a copy of this order, if it has already not been disposed of.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J.)

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