

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12107 of 2018

=====

Nitin Sharma, Son of Late Shree Laxman Sharma, Resident of East Boring Canal Road (Budha Colony, Main Road), P.S. – Budha Colony, District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Department of Home, Government of Bihar.
2. The Secretary, Department of Home, Government of Bihar.
3. The District Magistrate, Patna, District – Patna.
4. The Senior Superintendent of Police, Patna, District – Patna.
5. The Sub Divisional Officer, Patna Sadar, Patna.
6. The District Arms Magistrate, Patna, District – Patna.
7. The SHO, Budha Colony P.S., District – Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Verma, Advocate
For the Respondent/s : Mr. Manish Kumar- GP4

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 17-07-2018

Heard Mr. Rajesh Kumar Verma, learned counsel for the petitioner and Mr. Manish Kumar, GP-4.

The present writ application has been filed for a direction to Respondent Nos. 3 and 6, District Magistrate, Patna and District Arms Magistrate, Patna to take a decision of the application of the petitioner submitted on 11.07.2011 and 04.11.2011 for grant of licence for pistol and revolver, as contained in Annexure-7 and 8 respectively to the I.A. filed



subsequently.

I.A. No. 5208 of 2018 has been filed to supplement the pleadings as the complete form could not be annexed with the main writ application. Let it be kept on record.

The factual matrix of the case is that the petitioner is engaged in construction business used to receive extortion calls and consequently life threats were given leading to registration of Budha Colony P.S. Case No. 08 of 2011. Consequently, the petitioner applied for providing security guards on 17.01.2011 before Respondent No. 4, Senior Superintendent of Police, Patna and thereafter, two armed bodyguards were provided to the petitioner on 22.01.2011 by Respondent No. 4, S.S.P., Patna, but the said bodyguards were withdrawn subsequently on the eve of Panchayat Election, 2011. Thereafter, the petitioner made several representations and vide Memo No. 3292 dated 21.12.2011 issued from the office of Respondent No. 3 the petitioner was asked to submit certain required documents for taking decision for grant of licence of pistol and revolver, but no action has been taken by the licensing authority to take a final decision, hence, the present writ application.

Mr. Manish Kumar, learned GP-4 submits that, at present, he is not having any instruction whether any final



decision has been taken on the application for grant of armed licence to the petitioner or not, but if it will not be taken, it will be taken within a time frame.

Having heard the learned counsel for the parties, it is true that neither Sections 13 and 14 of the Arms Act, 1959 nor Rule 51 of the Arms Rules, 1962 stipulated any time frame for exercise of jurisdiction by the licensing authority to take a decision on the application of the prospective licensee. However, noticing the callous manner in which the licensing authority used to keep the applications for grant of licence pending for months and years together, a Division Bench of this Court about a decade ago in the case of Dwivedy Surendra Vs. The State of Bihar and another (CWJC No. 13496 of 2004) reported in 2007(3) PLJR 76, directed all the licensing authority to dispose of all the pending applications for grant of arms licence within a period of two months in which the police report has been received and in the case of non-receipt of the police report within a period of four months and consequently an advisory was issued by the State Government but in spite of that the licensing authority continued to behave in a callous manner, as a result, in Arms Rules, 2016 the specific time frame has been incorporated for submission of police report as well as to take a decision by the licensing authority by



speaking and reasoned order on receipt of the police report. Rule 14 of Arms Rules, 2016 stipulates that the Officer-in-Charge of the nearest police station will submit the report within thirty days of receipt of the application, whereas Rule 13 of Arms Rules, 2016 stipulates that the licensing authority will take a final decision by speaking and reasoned order either grant or refuse to grant the arms licence within sixty days of the receipt of police report. Hence, it appears that the licensing authority is not taking decision for grant of licence which is violation of statutory provisions. The whole thing has been created in the office of the licensing authority in the while State of Bihar because there is no queue. It is expected, at least, from District Magistrate, Patna to get prepared a seniority list of the applications so that no jumping of the queue is made and to take decision as per seniority list of the applications submitted. If whole system is developed then it is a transparent system but also it will generate confidence in the public at large.

In view of the discussions made above, it is expected from Respondent No. 3, District Magistrate, Patna to take final decision on the application of the petitioner for grant of pistol and revolver within a period of six weeks from the date of receipt/production of a copy of this order.



Accordingly, this writ application is disposed
of.

DKS/- **(Dinesh Kumar Singh, J)**

U			
---	--	--	--

