

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14810 of 2017

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Arun Kumar, Son of Sri Madan Mohan Prasad, Resident of Meena Bazar Ki Gali, Tagore Nav Vidyalaya, Near Pili Kothi, P.S. Alamganj, District - Patna.

.... Petitioner.

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Patna.
3. District Arms Magistrate, Patna.
4. Additional District Magistrate (Arms), Patna.
5. Divisional Commissioner, Patna.
6. Sr. Superintendent of Police, Patna.
7. S.D.O. Patna City.
8. S.H.O. Alamganj P.S., Patna.

.... Respondents.

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Appearance :

For the Petitioner/s : Mr. P.N. Pandey, Advocate
Mr. Deepak Kumar, Advocate
For the Respondent/s : Md.N.H.Khan, SC-1
Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 20-08-2018

Heard Mr. P.N. Pandey, learned counsel for

the petitioner and Md. Irshad, learned AC to SC-1.

The present writ application has been filed for a direction to Respondent No. 2, District Magistrate, Patna to take a final decision on the application of the petitioner submitted for grant of licence for N.P. Bore Revolver/Pistol in pursuance to the order dated 26.04.2016 passed by Respondent No. 5, Divisional Commissioner, Patna in Arms Appeal Case No. 617 of 2014, whereby the learned Appellate Court has remanded back the matter to the District Magistrate to reconsider the application of



the petitioner since it was earlier rejected basically on the ground of lack of threat perception.

The factual matrix of the case as per the pleadings made in the writ application is that the petitioner while conducting his real estate business is apprehended threat to his life and property hence, he submitted an application before the District Magistrate, Patna –cum- Licensing Authority under the Arms Act for grant of licence for N.P. Bore Revolver/Pistol on 20.10.2012, as contained in Annexure-1. Consequently, police report was called for from the S.H.O., Alamganj Police Station and on the basis of the report of S.H.O., Alamganj Police Station dated 14.11.2013, Respondent No. 6, the S.S.P., Patna vide letter No. 184/C dated 24.01.2014, as contained in Annexure-2 series, recommended the application of the petitioner for grant of licence but the District Magistrate rejected the application of the petitioner, vide order dated 16.07.2014 basically on the ground that the petitioner is not having any threat to his life and property and he has failed to submit a cogent reason for grant of arms licence. Consequently, the said order of the licensing authority was challenged by the petitioner in Arms Appeal No. 617 of 2014 before Respondent No. 5, Divisional Commissioner, Patna where despite the final hearing, no order in the said Arms Appeal was



passed, leading to filing of C.W.J.C. No. 17375 of 2015 before this Court which was disposed of by a Bench of this Court vide order dated 23.11.2015 allowing the Appellate Authority to take a final decision in the matter within two months of the receipt/production of the copy of the order of the High Court. Consequently, Divisional Commissioner, Patna vide order dated 26.04.2016 in pursuance to the order of this Court, as contained in Annexure-4, and after considering the various decisions of this Court came to a conclusive finding that the threat perception to life and property cannot be treated as sine qua non for grant of arms licence hence remanded back the matter to Respondent No. 2. However, the licensing authority was given liberty to obtain a fresh police report in view of the application remaining pending for considerable period, but on remand, in spite of several representations made by the petitioner, the District Magistrate, Patna has not taken any decision. However, in the meantime, an extortion demand was made from the petitioner leading to registration of Alamganj P.S. Case No. 214 of 2016 with accusation under Section 384 of the Indian Penal Code, as contained in Annexure-7.

It is further submitted by learned counsel for the petitioner that in view of notification dated 15.07.2016 issued



by the Central Government, Arms Rules, 2016 came into force, wherein new format for application of arms licence has been prescribed in Form A-1 under Rule 11. Consequently, the petitioner submitted relevant documents on 02.01.2018 along with bank challan of Rs.1,000/- in new format in Arms Rules, 2016. A Photo copy of the same has been brought on record by way of supplementary affidavit, as contained in Annexure-9 series. It is further submitted that Rule 13 of Arms Rules, 2016 prescribes time limit of sixty days for passing of the speaking and reasoned order by the licensing authority on the application of the petitioner, but no decision has been taken by the licensing authority till date and hence, this writ application.

Learned AC to SC-1 submits that, at present, he is not having any instruction whether any decision has been taken on the application of the petitioner or not, but if no decision has been taken till date, it will be taken by the licensing authority within a time frame.

Since the writ application has been registered on 11.10.2017 but no counter affidavit has been filed till date, this Court is not inclined to adjourn the matter any further.

This Court is dismayed to find that the discretionary jurisdiction under Article 226 of the Constitution of



India is being invoked by the citizen of the India to remind the statutory authorities to discharge their obligations in accordance with the statutory mandate prescribed under the Arms Act and the Rules. Rule 14 of the Arms Rules, 2016 mandates the submission of the police report within thirty days from the date of the receipt of the application and sixty days time has been prescribed under Rule 13 of the said Rules for taking a final decision for grant or refuse to grant arms licence from the date of receipt of the police report. The action or inaction of the licensing authority is absolutely in contravention to the statutory mandate.

In the circumstances, it is expected from Respondent No. 2, District Magistrate, Patna to take a final decision in the matter within six weeks of the receipt/production of a copy of this order as per the provisions under the Arms Act and the Rules, particularly, in view of the parameters of the appellate remand order and in view of the fact that the petitioner has received threat of extortion.

Accordingly, this writ application is disposed of with the aforementioned direction and observation.

(Dinesh Kumar Singh, J)

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