

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15695 of 2018

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Amit Kumar, S/o Shankar Dayal Singh, R/o Village- Dharupur, P.S. Bikramganj, District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Sasaram, Rohtas.
3. The Superintendent of Police, Sasaram, Rohtas.
4. Sub-Divisional officer, Sasaram, Rohtas.
5. Officer-in-Charge, Bikramganj Thana, Distt. Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishal Saurabh, Advocate

For the Respondent/s : Mr. Md. Nadeem Seraj, GP-5
Mr. Shailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 04-09-2018

Heard Mr. Vishal Saurabh, 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. 2, the District Magistrate–cum–licensing authority, Sasaram, Rohtas to take a final decision on the application of the petitioner for grant of licence for N.P. Bore Rifle under the heirloom policy.

It is submitted by learned counsel for the petitioner that the father of the petitioner, Shankar Dayal Singh has been holding a licence for N.P. Bore Rifle No. AB831174 vide Licence No. 2413/83 since 1983 and considering his old age, he



intends to transfer the said licence to the petitioner. Consequently, the petitioner submitted an application before the licensing authority, whereupon, the SHO of the nearest police station recommended the case of the petitioner for grant of arms licence

Prior to coming into force of Arms Rules, 2016, specific directives were issued by the Ministry of Home, Govt. of India as well as the Principal Secretary, Department of Home, Govt. of Bihar for giving preference to the heirs/nominee of the licensee. Yet, the petitioner's application has been kept pending by the licensing authority ignoring the specific provision under Rule 25 of Arms Rules, 2016 which provides for giving preference while considering the grant of arms licence to the heirs or the nominee of the licensee. Hence, the present writ application.

Learned AC to GP-5 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 he further adds to say that if decision has not been taken till date, it will be taken by the licensing authority within a reasonable time frame.

The only issue in the present writ application is whether the licensing authority can keep the application for grant of arms licence pending for months or years together. It is true that there was earlier absence of specific time frame for exercise of the



statutory jurisdiction by the licensing authority under Section 13 of the Arms Act, 1959 or under Rule 51 of Arms Rules, 1962. Though, through the executive instructions of the Central Government as well as State Government and through the judicial pronouncements directives were issued to the licensing authority to pass a final order on the application submitted for grant of arms licence. Seemingly, since the executive instructions and the judicial pronouncements, failed to yield the desired results, as the licensing authorities continued with their laid back approach, Arms Rules, 2016 came to be enforced, wherein, under Rules 13 and 14 of the Arms Rules, 2016 specific time frame has been prescribed for disposal of the application for grant of arms licence. Rule 14 mandates that the Station House Officer of nearest police station shall transmit the police report within thirty days of the receipt of the application, whereas Rule 13 mandates that the licensing authority will pass a speaking and reasoned order in writing either granting or refusing to grant arms licence, within a period of sixty days from the receipt of the police report. Coming to the facts of the present case in concern, there is nothing on the record to suggest that any decision has been taken on the application of the petitioner.

The other issue is whether grant of licence to



the heirs or the nominee of the licensee or a fresh application should be treated at par with each other, or the heirs or nominee of the licensee should be given a preference in view of the earlier executive instructions issued by the Ministry of Home, Govt. of India and by the Principal Secretary, Department of Home, Govt. of Bihar. This Court finds that the licensing authorities have been directed to consider the application of arms licence expeditiously with regard to the heirs or the nominee of the licensee who has remained licensee for 25 years or has attained the age of 70 years. It gets culled out on base reading of Rule 25 of Arms Rules, 2016, that such specific provision has been inserted with regard to the grant of arms licence to the legal heirs. The primary object of the insertion of specific provision is to give preference to such applicant, if he is otherwise eligible. So far as the criteria for grant of such licence is concerned, that has to be considered by the licensing authority, vis-à-vis the family member on whose behalf the application is made for grant/transfer of arms licence. Hence, in such a circumstance, the grant is more in the nature of transfer, if the applicant is otherwise eligible and the police report is not adverse against him.

In view of the discussions made above, it is expected from Respondent No. 2, the District Magistrate,



Sasaram, Rohtas –cum- licensing authority under the Arms Act to take a final decision on the application of the petitioner, particularly, in view of the specific provision under Rule 25 of Arms Rules, 2016 by speaking and reasoned order in writing within a period of six weeks from the date of receipt/production of a copy of this order.

With the above observation and direction, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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