

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2215 of 2017

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Devendra Prasad Singh S/o Late Ram Chandra Singh resident of village Majrohi, P.O. Sahadai - Buzurg, P.S. Sahdai, District - Vaishali, Pin Code - 844509, presently residing in the house of Smt. Motiraj Devi, Near Shivam Convent School, Harnichak, Anishabad, P.S. Beur, District - Patna - 2.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Patna.
2. The Secretary, Water Resources Department, Government of Bihar, Irrigation Building, Patna.
3. The Under Secretary (Management), Water Resources Department, Government of Bihar, Patna.
4. The Chief Engineer, Water Resources Department, Government of Bihar, Patna.
5. The Superintending Engineer, Design Planning and Monitoring Circle, Anisabad, Patna.
6. The Superintendent of Police, Town, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saurabh Kumar
For the Respondent/s : Mr. Vikash Kumar-Sc11

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 05-11-2018

Heard learned counsels for the parties.

The present writ application has been filed for a direction to the Respondent authorities, particularly, Respondent No. 1, the District Magistrate, Patna to take a decision on the application of the petitioner submitted on 10.12.2013 for grant of licence for pistol, particularly in view of letter no. 8/AM-1028/91 Home (Police) 3117 dated 20.4.1992 issued under the signature of the then Deputy Secretary, Government of Bihar to all Divisional Commissioners and all District Magistrates to



take quick action with regard to grant of arms licence to those who are engaged in performing government duty in remote areas since they are faced with threat perceptions at their respective place of duty.

It is submitted by learned counsel for the petitioner that the petitioner is Junior Engineer in Water Resources Department, Government of Bihar and is posted at Patna and he is apprehending threat to his life and property. The petitioner submitted an application for grant of licence for pistol on 10.12.2013 with all necessary documents and despite the fact that Chief Engineer, Water Resources Department vide letter dated 24.12.2014 as contained in Annexure 9 recommended for grant of arms licence to the petitioner, but the licensing authority has not taken any decision on the application of the petitioner. Hence the present writ application.

Though a counter affidavit has been filed on behalf of Respondent Nos. 2,3, and 4, the Secretary, Water Resources Department, the Under Secretary (Management), Water Resources Department, and the Chief Engineer, Water Resources Department, Government of Bihar, respectively, but no counter affidavit has been filed on behalf of the licensing authority, i.e. the District Magistrate, Patna.



Learned AC to SC 11 submits that at present he is not having any instruction as to whether any decision has been taken by the licensing authority on the application submitted by the petitioner or not. But he further submits that if decision has not yet been taken on the application of the petitioner till date, the same will be taken by Licensing Authority within a reasonable time frame. However, from the perusal of the materials on record, it appears that the licensing authority has not taken any decision on the application of the petitioner.

Though the petitioner submitted application for grant of arms licence in 2013, much prior to the coming into force of Arms Rules, 2016 (hereinafter referred to as 'the Rule, 2016') with effect from 15th July, 2016, but in view of the enforcement of the Rule, 2016, Arms Rules, 1962 has been superseded except as respect to things done or omitted to be done. Though there was no time limit prescribed for taking decision on the application for grant of arms licence in Arms Rules, 1962 but Rule 13 of the Rules, 2016 prescribes the time limit for grant of licence. According to this Rule the licensing authority after considering the application submitted for grant of licence and on being satisfied that the applicant has fulfilled the eligibility condition, shall within sixty days of the receipt of the police



report by a speaking and reasoned order in writing shall either grant or refuse to grant arms licence, while Rule 14 of the Rules, 2016 prescribes the time limit for submission of police report to licensing authority. This Rule in explicit terms stipulates that the licensing authority on receipt of the application for grant of licence under Section 13(1) of the Arms Act, 1959 or at the time of every renewal of the arms licence under Section 15 of the Act, shall call for a report from the officer in charge of the nearest police station who will transmit the report within thirty days of receipt of such application by him.

Schedule V of Rules 2016 which has been made in exercise of power under Rule 16 casts duty upon the licensing authority to ensure the compliance of delivery of different services specified in Column (2) in Schedule V within a time frame specified in Column (4) of the said Schedule. Schedule V prescribes time limit for various services under Rules for the licensing authority under Schedule II. Sl. No. 1 relates to police verification under Rule 14 of Rules, 2016 which prescribes 30 days time from the date of receipt of application, whereas Sl. No. 2 prescribes sixty days time limit for grant or refusal of a licence from the date of receipt of police report under Rule 13 of Rules, 2016. It is high time, the



licensing authority, should be conscious of the statutory obligations cast upon him as per the Act.

In the present case, the application for grant of licence for pistol was submitted in 2013 but there is nothing on record to suggest that any police report was called for and that the application of the petitioner has been disposed of.

In the circumstances, the Respondent No. 1, the District Magistrate, Patna is expected to take a decision on the application of the petitioner within a period of four weeks from the date of receipt/production of a copy of this order.

Accordingly, the present writ application is disposed of with aforesaid observation and direction.

(Dinesh Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

