

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19789 of 2016

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Ram Prakash Narayan, Son of sri Raj Kishore Sharma, Resident at Road No.-
15, Rajiv Nagar, Police Station Rajiv Nagar, District-patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Government of Bihar, Patna
2. The District Magistrate, Patna
3. The District Arms Magistrate, Patna
4. The Senior Superintendent of Police , Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Md. Helal Ahmad, Adv.
For the Respondent/s : Mr. Anil Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 30-10-2018

Heard learned Counsels for the petitioner and the respondents.

The present Writ application has been filed for a direction to the respondent authorities, particularly, the Respondent No.2, the District Magistrate, Patna to take a decision on the application submitted by the petitioner for grant of licence of N.P.Bore Rifle/Pistol.

This writ application has been registered on 13.12.2016, but no counter affidavit has been filed, moreover, in view of the nature of order this Court intends to pass, there is no need of adjourning the matter any further.

It is submitted by learned counsel for the petitioner that an



application was submitted by the petitioner for grant of licence of N.P. Bore for the protection of his life and property, rifle/pistol, but till date decision has not been taken on the application of the petitioner. Hence, the present writ application.

A counter affidavit has been filed on behalf of Respondent Nos. 2 and 3, the District Magistrate, Patna and the District Arms Magistrate, Patna, stipulating therein that the report was called for from the S.S.P., Patna, vide letter dated 03.09.2012, thereafter on 30.12.2016, but the same has not been received, as soon as the report will be received, appropriate needful action will be taken in accordance with law. The counter affidavit suggests that the Respondent No.2, the District Magistrate, Patna, who is exercising the jurisdiction as a licensing authority under the Arms Act, 1959 (hereinafter referred to as 'the Act') is completely ignorant about the Act and the Rules, 2016 and the manner and procedure prescribed therein for exercise of discretion. Sub-Section (2) of Section 13 of the Act, stipulates that on receipt of an application, the Licensing Authority has to call for a report from the Officer-in-Charge of nearest police station. Section 13(2) of the Act reads as under :-

“[(2) On receipt of an application, the licensing authority shall call for the report of the officer-in-charge of the nearest police station on that application, and such



officer shall send his report within the prescribed time.

Rule 14(1) of the Arms Rules, 2016 also stipulates that on receipt of an application for grant of a licence under sub-section (1) of section 13 or every subsequent renewal thereof under section 15, the licensing authority shall call for a report of the officer-in-charge of the nearest police station. Rule 14(1) of the Arms Rules, 2016, reads as under :-

“14(1) On receipt of an application for grant of a licence under sub-section (1) of section 13 or every subsequent renewal thereof under section 15, the licensing authority shall call for a report of the officer-in-charge of the nearest police station on that application, and such officer shall send his report in Form S-4, within a period of thirty days from the date of receipt of application by him.”

The relevant paragraph nos. 5 to 8 of the counter affidavit reads as under :

“5. That, in view of the application made by the petitioner, the then District Arms Magistrate, Patna vide letter No.2174/Arms, dated 03.09.2012 has sought police report-cum opinion from the S.S.P., Patna with regard to grant of arms licence for Revolver/Pistol. A similar letter bearing no.2227/Arms, dated 03.09.2012 has been sent to the office of the S.S.P., Patna seeking police report-cum-opinion with regard to grant of arms licence for N.P.Bore Rifle.

6. That, the District Arms Magistrate, Patna vide letter no.3680/Arms, dated 30.12.2016 has



sent reminder letter for seeking police report cum opinion from the S.S.P., Patna for grant of licence of N.P. Bore Rifle.

7. That, the District Arms Magistrate, Patna vide letter no.3681/Arms, dated 30.12.2016 has sent reminder letter for seeking police report cum opinion from the S.S.P., Patna for grant of licence of N.P. Bore Revolver/Pistol.

8. That, the answering respondent will take needful action in the aforesaid matters in accordance with law as soon as the aforesaid police reports are received in the office of the licensing Authority cum District Magistrate, Patna.”

Since it appears that the licensing authority has never called for a report from the Officer I/c of the nearest police station, which suggests the callous manner in which the District Magistrate, Patna is functioning. Since now the time frame has been fixed under Rules 13, 14 of the Arms Rules, 2016, which clearly stipulates that the licensing authority has to call for a report from the Officer In-charge of the nearest police station as soon as the application received and the Officer In-charge has to transmit the same within 30 days, whereas Section 13 of the Act prescribes 60 days time limit for grant of licence and the time limit for submission of police report to the Licensing Authority, it is expected from the District Magistrate, Patna to be careful in future in filing counter affidavit. This Court also



expects from the District Magistrate that he will pass the order under the Act after carefully going through the provision, failing which, this Court will be constrained to hold that the District Magistrate, Patna is not competent to hold the post. It is expected from the S.S.P., Patna, to see under what circumstances, the police report was not submitted and to take needful action against the person at whose level it was not submitted.

In view of the discussions made above, Respondent No.2, the District Magistrate, Patna, is expected to dispose of the application of the petitioner, in accordance with the provisions of the Arms Act, 1959, preferably within a period of four weeks, from the date of receipt/production of a copy of this order.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

