

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.8163 of 2018**

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Ranjan Kumar Mishra, S/o Deochandra Mishra, R/o Village- Surauli, P.S.- Bibhutipur, District- Samastipur, Bihar, Presently posted as Civil Judge (S.D.) cum additional Chief Judicial Magistrate, Bhagalpur, Quarter NO. B- 16, Judges Colony, Laal Bagh, Tilkamanjhi, Bhagalpur.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The District Magistrate, Munger.
3. The District Magistrate, Bhagalpur.
4. The Superintendent of Police, Munger.
5. The Superintendent of Police, Bhagalpur.
6. The Arms Magistrate, Bhagalpur.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Avanish Kumar Singh, Advocate

For the Respondent/s : Mr. Partha Sarth, GA-4

Mr. Utsav Kumar, AC to GA-4

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 08-05-2018**

Heard Mr. Avanish Kumar Singh, learned counsel  
for the petitioner and Mr. Ustav Kumar, learned AC to GA-4.

The present Writ application has been filed for a  
direction to the respondent authority particularly Respondent no. 3,  
the District Magistrate Bhagalpur to take the decision on the  
application of the petitioner dated 06.05.2015, as contained in  
Annexure-1, submitted for grant of licence for N.P. Bore  
Pistol/Revolver.

The factual matrix of the case is that the petitioner



is a Judicial Officer and at present posted as Civil Judge (Senior Division) –cum- Additional Chief Judicial Magistrate, Bhagalpur. His wife is also a Judicial Officer and posted as Civil Judge (Senior Division) –cum- Additional Chief Judicial Magistrate, Bhagalpur. The petitioner applied for issuance of arms licence by submitting an application on 06.05.2015 before the Licensing Authority, Munger, as contained in Annexure-1, since at the relevant time the petitioner was posted at Munger. Subsequently, the Officer-in-Charge, Kotwali P.S., Munger vide Memo No. 398/2015, dated 27.07.2015, as contained in Annexure-2, addressed to the Additional Superintendent of Police, Sadar Munger, forwarded the verification report recommending the case of the petitioner, but thereafter no action was taken.

The petitioner was transferred to Bhagalpur on 30.07.2015 as Civil Judge (Senior Division) –cum- Additional Chief Judicial Magistrate. The petitioner vide letter dated 28.07.2016, addressed to Respondent no. 2, District Magistrate, Munger, by way of reminder, made a request for grant of licence, as contained in Annexure-3. The District Magistrate, Munger, Respondent no. 2 in spite of disposing of the application for grant of Arms licence vide Memo No. 641 dated 20.08.2016 forwarded the arms licence application of the petitioner to the District arms Magistrate, Bhagalpur with a request to take necessary action. The copy of the said letter has



been brought on record as Annexure-4, but thereafter the petitioner did not receive any communication either from the licensing authority or from the District Arms Magistrate, Bhagalpur, as a result, he submitted representation dated 23.02.2017 to the District Magistrate, Bhagalpur, Respondent no. 3, for taking a decision on the application of the petitioner, but there was no response and ultimately the petitioner filed an application on 19.02.2018 before the Information Officer –cum- District arms Magistrate, Bhagalpur under Right to Information Act for giving information with regard to the action taken on his Arms licence application, as contained in Annexure-7, but surprisingly no information was supplied, hence, the petitioner filed appeal before the Appellate Authority –cum- District Magistrate, Bhagalpur on 11.04.2018, as contained in Annexure-8, but the same is still pending.

It is submitted by learned counsel for the petitioner that, though, the petitioner and his wife are Judicial Officers but in view of the nature of post they hold, they have apprehension to their life due to the deteriorating law & order situation as recently firing was resorted to on a Judicial Officer, while having morning stroll. The allotment of bodyguards have no definite parameters, sometimes they are allotted and most of the times during election or visit of VVIP in the area, they are withdrawn without any notice or without specifying



the time limit for return of the bodyguard and hence, the petitioner decided to apply for grant of arms licence. But the petitioner being Judicial Officer is dismayed to find that if he has to run pillars to get arms licence, what will be the fate of a common man. The petitioner has also relied upon the letter of Principal Secretary, Home (Police) Department, Govt. of Bihar, issued vide Memo No. 10010 dated 04.02.2014 whereby all the District Magistrates and Superintendent of Police have been directed to take prompt decision on the application filed for grant of licence in view of the advisory issued by Department of Home, Govt. of India vide letter No. 11016/16/2009-Arms dated 31.03.2010, the said advisory stipulates that the respective District Magistrate has to transmit the application to respective Superintendent of Police. Immediately on receipt of the application. The respective superintendent of Police on receipt of the police report the licensing authority has to take decision with regard to grant of licence within 30 days thereafter. Hence, the whole exercise for taking a decision must not take more than 75 days, but it appears that the said advisory did not have any impact on the licensing authority. Hence, the present Writ application.

Learned AC to GA-4 submits that, at present, he is not having any instruction, but if no decision has been taken on the application of the petitioner, the Respondent no. 3 will take a decision



within a time frame.

Having heard the learned counsel for the parties, true it is that under the Arms Rule 1962, though, Rule 51 prescribes format of application to be made for grant of licence but that does not stipulate the time limit for the licensing authority to decide the issue. This has been the trend of the licensing authority to keep the application for grant of licence for months and years together and to take a delayed decision in a casual laid back manner, on such application. Visualizing the same Division Bench of this Court in case of ***Dwivedy Surendra (Advocate) Vs. The State of Bihar & Ors.***, reported in 2007(3) PLJR 76, directed that in the case, in which, police verification reports have been received by the Licencing Authority, it has to be disposed of by Licencing Authority within a period of two months and in case of non-receipt of police verification report, the application should be disposed of within a period of four months. Consequently, the Department of Home, Govt. of Bihar issued an advisory to the Licencing Authority, but this court is dismayed to find that the same is not being followed by the Licencing Authority. From time to time the Department of Home, Govt. of India, on having received the complaint for keeping pending the application for issuance of arms licence, for years together issued instructions and one of such instructions was issued in 2009-10 and consequently, an



advisory was issued by the Department of Home, Govt. of Bihar, as far back as in 2014.

No doubt in the present case the, the application was submitted as far back as in 2015, but it appears that the advisory issued in 2014 did not have any impact on the licensing authority.

Considering the apathetic attitude and inaction of the licensing authorities, inspite of the advisory or instruction issued by the Central Government, the legislature thought it proper to frame new Rules and consequently in Arms Rule, 2016 the provision stipulating time limit has been brought in Rule 14, whereby a time limit has been fixed for transmission of the police report, which suggests that on receipt of the application for grant of 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 within a period of thirty days from the date of receipt of application . Similarly, time limit has been fixed for exercise for grant of licence the licensing authority under Rule 13, which mandates that licensing authority after considering the application and on being satisfied that the applicant has fulfilled the eligibility conditions, shall grant or refuse to grant a licence for permissible category of arms or ammunition specified in category III



of Schedule I, to any person by recording in writing the reasons for such grant or refusal, by passing a speaking order, within a period of sixty days of the receipt of the police report. Arms Rules, 2016 was published in Gazette of India as far back as on 15.07.2016, it is almost two years, but it appears that the licensing authorities are still in deep slumber.

Arms Rule, 13 and 14 read as follows:-

**“Rule 13. The time limit for grant of licence. –**

The licensing authority, after consideration the application and on being satisfied that the applicant has fulfilled the eligibility conditions, shall grant or refuse to grant a licence for permissible category of arms or ammunition satisfied in category III of Schedule I, to any person by recording in writing the reasons for such grant or refusal by passing a speaking order, within a period of sixty days of the receipt of the police report.

Provided that the licensing authority was specify, the type of arms and ammunition to be procured by the applicant after assessing the reason and the need for possession of the type of arms and



ammunition applied for by the applicant, considering the lethality or fire-power.”

**“Rule 14. Time limit for police report for grant**

**of licences:-** (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.

(2) The Central Government may by issuance of a general or special order, extend the period of thirty days as specified in sub-rule (1) up to ninety days for certain areas or States for any reason deemed appropriate by it.

(3) The licensing authority may in case of non-receipt of police report within the period of thirty days under sub-rule (1) or within the extended period under sub-rule (2), make an order in writing for grant or refusal of licence, without further



waiting for the report.”

This Court is really dismayed to find the apathetic attitude of the licensing authority, particularly, when, in the present case, the issue is with regard to grant of arms licence to a Judicial Officer.

In view of the discussion made above, it is expected from Respondent no. 3, District Magistrate, Bhagalpur to take a decision on the application of the petitioner for grant of licence within a period of six weeks of the receipt/production of a copy of this order.

Accordingly, this Writ application is disposed of.

**(Dinesh Kumar Singh, J)**

DKS/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | 24.05.2018 |
| Uploading Date    | N/A        |
| Transmission Date | N/A        |

