

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7670 of 2018

=====

Omkar Nath Singh @ Onkar Nath Singh, Son of Sri Kamta Prasad Singh,
Resident of Village- Simaribala, P.S.- Kutumba, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The District Magistrate-cum-the Licensing authority, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. Arms Magistrate, Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr. Shailesh Kumar, AC to GP5

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 25-06-2018

Heard learned Counsels for the petitioner and the respondents.

The present Writ application has been filed for a direction to the licensing authorities to pass appropriate order on the application of the petitioner submitted before the licensing authority, i.e., the Respondent No.2, the District Magistrate, Aurangabad for grant of licence of pistol.

This writ application has been registered on 19.04.2018, 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 the



petitioner being a political activists, apprehending threat to his life and property, submitted an application with a prayer for grant of an arms licence for pistol on 21.12.2011, as contained in Annexure-1, before the Respondent No.2, the District Magistrate, Aurangabad. Petitioner is the husband of Panchayat Mukhiya and is in the hit list of Naxalities. The police after proper verification recommended the case of the petitioner for grant of arms licensee, but till date the application of the petitioner has been kept pending. An attempt on the life of the petitioner was also made leading to registration of Aurangabad Town P.S. Case No. 99 of 2016.

Learned AC to GP-5, appearing on behalf of the respondents 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 submits that if the application of the petitioner has not been disposed of till date, it will be disposed of within a time frame as directed by this Court.

Section 13 of the Arms Act, 1959 (hereinafter referred to as 'the Act') stipulates the provision for grant of licence, on application being made along with the prescribed fee. On receipt of such application, the Licensing Authority has to call for a



report from the Officer-in-Charge of nearest police station and the Officer-in-Charge has to transmit the report within a prescribed time limit and the Licensing Authority, after considering the police report, has either to grant licence or refuse to grant licence, provided, where the officer in charge of the nearest police station does not send report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time. However, Section 13 of the Act does not prescribe any time limit for disposal of such application nor prescribes the time limit for the police to transmit report.

Rule 51 of Arms Rules, 1962 (hereinafter referred to as 'the Rules'), however, deals with the application for licence but it basically deals with the format in which the application is to be made with regard to different kinds of arms for which the licence is sought for. Section 51 of the Rules also does not stipulate any time limit for disposal of application made for grant of arms licence. However, considering the apathetic attitude of Licencing Authorities in disposal of the application for grant of arms licence, a Division Bench of this Court, in the case of *Dwivedy Surendra, Advocate Vs. The State of Bihar and Ors.*, reported in 2007(3) PLJR 76 directed the Home



Secretary, Government of Bihar to write a letter to the Inspector General of Police of all the Divisions with a copy to all the Superintendents of Police directing them to issue direction to the concerned police officers to send the verification report to the District Magistrates of their respective districts within a period of one month. The District Magistrates were directed to dispose of all the pending application submitted for grant of arms licence within two months where the police reports have been received by the licensing authority and in other case within a period of four months where the police report has not been received by the licensing authority. In case of disobedience of the order, the Court directed to take stern action against the concerned police officers. Consequently, directives were issued by the Department of Home, Govt. of Bihar.

Visualizing the undue delay in disposal of such application by the licensing authority, it appears that the Legislature introduced Rules 13 and 14 in the Arms Rules, 2016, which prescribes time limit for grant of licence and the time limit for submission of police report to the Licencing Authority. Rule 13 of the Rules 2016 specifically suggests that the Licencing Authority, on 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. Rule 14 of the Arms Rules, 2016 prescribes the time limit of thirty days for the police/Officer-in-Charge of a Police Station to submit its report in Form-S-4, to the Licensing Authority, on his asking while Rule 14(2) speaks of extending the time period for submitting the police report from thirty days to ninety days for certain areas or States, for appropriate reason.

In the present case, it appears that the police report has been received by the licensing authority in 2013 itself, but more than five years have been lapsed and the slumber of the licensing authority has not been broken.

Having heard learned counsels for the parties, this Court is really dismayed to find that even the provisions of the Arms Act, 1959 provide mechanism for issuance of arms licence to people for personal safety and security, as also the security of property, but the petitioner has been waiting for grant of licence for pistol



since last several years.

In view of the discussions made above, Respondent No.2, the District Magistrate, Aurangabad, 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 six 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	

