

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1536 of 2018

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Manish Kumar Yadav, S/o- Late Vijay Kumar Yadav, Resident of Mohalla-
Gulabi Ghat Lane, P.O.- Mahendru, P.S.- Sultanganj, Town & District-
Patna.

.... Petitioner.

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Patna.
3. District Arms Magistrate, Patna.
4. Additional District Magistrate (Arms), Patna.
5. Divisional Commissioner, Patna.
6. Sr. Superintendent of Police, Patna.
7. Sub- Divisional Magistrate, Patna City.
8. S.H.O. Sultanganj P.S. Patna.

.... Respondents.

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Appearance :

For the Petitioner/s : Ms. Sweta Pandey, Advocate
For the Respondent/s : Mr. Kumar Bikram, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 27-08-2018

Heard Ms. Sweta Pandey, learned counsel for

the petitioner and Mr. Kumar Bikram, learned AC to GA-4.

The present writ application has been filed for a direction to the respondent authorities, particularly, Respondent No. 2, District Magistrate, Patna to take a final decision on the application of the petitioner submitted for grant of arms licence for DBBL gun.

It is submitted by learned counsel for the petitioner that the father of the petitioner was a licensee having licence of DBBL gun bearing Licence No. 235/1975 by the



licensing Authority, the then District Magistrate, Patna. After the death of the father of the petitioner on 23.12.2015, the DBBL gun was deposited with the Arms Dealer namely, M/s City Firearms, Patna on 07.02.2016. The receipt of such deposit has been brought on record, as contained in Annexure-1. The petitioner transmitted the application for licence for DBBL gun along with required fee of Rs.1,000/-, indemnity bond through speed post on 06.10.2017, as contained in Annexure-2 series. Thereafter, the petitioner submitted a representation on 15.01.2018 before Respondent No. 2, District Magistrate, Patna, as contained in Annexure-3, but till date no decision has been taken on the application of the petitioner.

It is submitted by learned counsel for the petitioner that there is a time frame prescribed under Rules 13 and 14 of the Arms Rules, 2016 (hereinafter referred as to the 'Rules') for transmission of the police report to the licensing authority as well as for taking a decision by the licensing authority on the application submitted for grant of arms licence. Rule 14 of the Rules, prescribes thirty days period for transmission of police report by the Station House Officer of nearest police station from the date of the receipt of the application, whereas Rule 13 of the Rules, prescribes sixty days period for taking decision by reasoned



and speaking order in writing by the licensing authority either for granting or refusing to grant the arms licence on receipt of the police report. But it appears that in the case of the petitioner, the time frame prescribed under Rules 13 and 14 have not been followed either by the police or by the licensing authority. It is further submitted that Rule 25 of the Arms Rules, 2016 mandates preference for considering the grant of arms licence to the heirs or the nominee of the licensee but if the same has been considered then a decision would have been taken on the application of the petitioner.

Mr. Kumar Bikram, learned AC to GA-4 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 decision has not yet been taken, till date, it will be taken by the licensing authority within a reasonable time frame.

Considering the rival submissions of the parties, this Court is of the view that either the licensing authority, being ignorant has no time to go through the statutory mandates or they are not bothering to adhere to the statutory provisions. This Court is also dismayed to find that there is nothing on record to suggest any reason for not taking decision on the application of the



petitioner. No doubt, no citizen can have any firearm without having a valid licence under Section 13 of the Arms Act, 1959. But from bare perusal of the provisions incorporated under Section 25 of Arms Rules, 2016, which mandates the preference to be given to the legal heirs or nominee of the licensee. It appears in the case of the petitioner that the grant of such licence is more in the nature of transfer of licence from the original licensee to the petitioner. In such a situation the heirs/nominee of the licensee has to undergo rigor procedures for making payment of the rent to the Arms dealer to keep the arms without having any use of arms and if the licence was granted to the licensee apprehending insecurity to life and property, then in majority of the cases such insecurity subsists even after the death of the licensee. That does not mean that the licence has to be granted to every heir or nominee but if the heir or nominee fulfills the other conditions which is required under the provisions of the Act, then there cannot be any justifiable excuse for not taking any decision on the grant of licence to such heirs or nominee within time frame.

Hope and trust that the licensing Authority, District Magistrate, Patna will take a decision on the application of the petitioner within a period of four weeks of the receipt/production of a copy of this order.



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

(Dinesh Kumar Singh, J)

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