

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9264 of 2018

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Rana Pratap Singh, Son of Late Lakshmi Niwas Singh, Resident of Village – Purani
Adalat Praw Arrahy, P.S. – Ara Town, District – Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate –cum- Arms Magistrate,
Bhojpur at Ara.
2. The Superintendent of Police, Bhojpur at Ara.
3. The Sub-Divisional Officer, Ara Town, Bhojpur at Ara.
4. The Deputy Superintendent of Police, Ara, Bhojpur, Ara.
5. The S.H.O., Ara Town, Bhojpur at Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

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

Mr. Utsav Kumar, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 10-05-2018

Heard Mr. Manoj Kumar, learned counsel for the
petitioner and Mr. Utsav Kumar, learned AC to GA-4.

The present Writ application has been filed for a
direction to the respondent authorities, particularly, the licensing
Authority, Rrespondent no. 1 for grant of licence of D.B.B.L. gun in
favour of the petitioner.

It is submitted by learned counsel for the petitioner
that the petitioner is a practicing lawyer of Ara Civil Court. The father
of the petitioner was holding an arms license, bearing Licence No.
1157 of D.B.B.L. gun. The father of the petitioner died on 08.05.2009
and thereafter the petitioner deposited the D.B.B.L. gun with the
Arms dealer namely, Sharma Gun House, D.T. Road, Ara Bhojpur.



Consequently, the petitioner submitted an application for issuance of Arms Licence before the District Magistrate, Bhojpur at Ara on 15.06.2009 with an affidavit that the petitioner is not having an Arms licence, but since then no decision has been taken by the licensing authority. Hence, the present Writ application.

Learned AC to GA-4 submits that, at present, he is not having any instruction, but he further submits that if no decision has been taken on the application of the petitioner then the same will be taken within a time frame.

Having heard the learned counsels for the parties, this Court is really dismayed to find that the application of the petitioner, being a lawyer, for grant of Arms licence, is pending before the licensing authority i.e. District Magistrate, Bhojpur at Ara, since the last nine years. Though, it is true that Arms Rule, 1962 did not mandate the time frame for taking a decision on the application, by the licensing authority for grant of licence. However, through the judicial pronouncements and Executive instructions a time period had been prescribed in this regard. The Principal Secretary, Home, Govt. of Bihar vide Memo No. 10010 dated 4th December, 2014 on the basis of directives of Department of Home, Govt. of India issued vide letter No. 11016/16/2009 dated 31.03.2010 directed all the District Magistrates and Superintendents of Police in the State of Bihar to send the application for grant of Arms licence to the concerned



Superintendent of Police immediately and on receipt of such applications the concerned Superintendent of Police will transmit the report in 45 days to concerned District Magistrate, whereupon the concerned District Magistrate will take a final decision within 30 days, meaning thereby that the whole exercise has to be made within maximum period of 75 days. It appears that the legislature realizing the issue of undue and long delay in disposal of applications for grant of arms licence, specifically introduced Rule 13 and 14 in Arms Rules, 2016 (hereinafter referred to as Rules, 2016). Rule 14 mandates the Officer-in-charge of the concerned police station to transmit the report within 30 days and Rule 13 mandates for taking final decision by speaking order by the licensing authority within 60 days of the receipt of police report.

Similarly, with regard to grant of licence to the heirs of the licensee. Arms Rule, 1962 did not have any specific provision. However, in this regard also on the basis of directives issued by the Ministry of Home, Govt. of India, then the Principal Secretary, Department of Home, Govt. of Bihar vide Memo No. 8212 dated 13th October, 2014 directed for considering the Arms licence with regard to the heirs of the licensee, after the death of the licensee or when the licensee has attained the age of 70 years or had held the weapon for 25 years or more. However, in Arms Rules, 2016 there is specific provision under Rule 25 for deciding the grant of licence to



the legal heirs of licensee. Rule 25 reads as follows:-

“Grant of licences to legal heirs. – ((1) The
licensing authority may grant a licence-

(a) after the death of the licensee, to his legal heir;

or

(b) in any other case, on the licensee attaining the
age of seventy years or on holding the fire-arm
for twenty-five years, whichever is earlier, to
any legal heir nominated by him:

Provided that notwithstanding the provisions
contained in Rule 12 of these Rules, the licensing authority may grant
a licence to such legal heir if the eligibility conditions under the Act
and these Rules were fulfilled by the said legal heir and there are no
adverse remarks in the police report.

(2) Where a licensee leaves behind more than one
legal heir and the legal heirs decided amongst themselves to retain the
arm or arms of the deceased, one of the legal heirs nominated by all
other legal heirs may apply for a licence under sub-rule (1) along with
the following documents, namely:-

(i) a declaration of no-objection from the remaining
legal heirs;

(ii) an indemnity bond executed by the applicant
giving full details of the licence and the arm or



arms endorsed thereupon; and

(iii) a copy of the death certificate of the deceased licensee.

(3) Where the legal heirs decide to dispose of the arm or arms endorsed on the license of the deceased licensee, they may apply to the licensing authority for grant of a limited period permission to sell the arm or arms, within the time allowed by such authority, to any licensed dealer or to any other person entitled to possess an arm under these rules.

Explanation. – For the purposes of this rule, “legal heirs” includes husband, wife, son, daughter, son-in-law, daughter-in-law, brother, sister and grandchildren of the licensee or the deceased licensee.”

The above Rule suggests that the licensing authority may grant licence to the legal heirs of the licensee after his death or during his lifetime if the licensee attains the age of 70 years or has been holding the licence for 25 year, whichever is earlier. In that case the legal heir has to be nominated by the licensee, provided that there is no adverse remark. The Rule also provided who can be treated as a legal heir. The said question is not in dispute. In the present case, the petitioner claims to be son of the licensee. However, authority can take an affidavit with regard to any objection from the other legal



heirs of the licensee.

In view of this Court, nobody can have arms without a valid licence and though Section 13 of the Arms Act stipulates the provisions for grant of arms licence but so far as the grant of licence to the legal heirs of licensee is concerned, it is a more in the nature of transfer if the applicant is otherwise eligible.Hence, Arms Rules, 2016 has incorporated the provision under Rule 25 for giving priority to such heirs of licensee.

It is expected, in view of the above discussions, from the licensing authority, District Magistrate, Bhojpur at Ara to take a final decision by passing a speaking order on the application of the petitioner within six weeks of the receipt/production of a copy of this order.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	21.05.2018
Uploading Date	NA
Transmission Date	NA

