

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12714 of 2018

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Himanshu Kumar, Son of Badri Nath Kumar, Resident of Mohalla
Dhrubganj, Kharik Bazar, P.S. Kharik, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Bhagalpur.
2. The District Magistrate/Collector, Bhagalpur.
3. The District Arms Magistrate, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The Station House Officer (S.H.O.) Kharik P.S., District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
Mr. Davendra Kumar Pandey, Advocate
For the Respondent/s : Mr. Parth Sarthi - GA4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 23-07-2018

Heard Mr. Pramod Kumar Singh, learned
counsel for the petitioner and Mr. Parth Sarthi, learned GA-4 for
the respondents.

In view of the nature of the order this Court
is intends to pass, there is no need to adjourn the matter any
further for filing counter affidavit.

The present writ application has been filed
for a direction to the licensing authority under the Arms Act, the
District Magistrate, Bhagalpur, Respondent No. 2 to take a final
decision on the application of the petitioner for grant of non-
prohibited bore rifle.



The factual matrix of the case is that the petitioner's father being a Govt. School teacher was shot dead when he failed to satisfy the demands of extortionists. The petitioner made an application for grant of licence for NP Bore rifle sometime in 1st half of the year 2016, the date of application has not been mentioned in the writ application, consequently the District Arms Magistrate, Bhagalpur vide Memo No. 17 dated 09.06.2016 directed the petitioner to submit certain papers in connection with PAN card, Income tax and other documents and it is submitted that the petitioner supplied the same, as contained in Annexure-1. Thereafter, another letter was issued to the petitioner from the office of the licensing authority requiring certain documents then and the same was also complied with, but till date no decision has been taken on the application of the petitioner. Hence, the present writ application.

It is further submitted by learned counsel for the petitioner that the whole family is in trauma since the father of the petitioner was killed by extortionists but the respondent licensing authority has not taken any decision of the application of the petitioner.

Mr. Parth Sarthi, learned GA-4 appearing for the respondents submits that, at present, he is not having any



instruction whether a decision on the application of the petitioner has been taken or not, but he submits that if no decision has been taken on the application of the petitioner, it will be taken by the licensing authority within a reasonable time frame.

This Court is dismayed to find that the writ applications are being filed for issuance of direction to the licensing authority to do what they are required to do under the Statute and the Rules. This Court is further dismayed to observe the callous manner in which the licensing authority has treated the application for grant of licence. Though, there was no time frame fixed for exercise of jurisdiction by the licensing authority to take a decision on the application for grant of licence either under Sections 13 and 14 of the Arms Act, 1959 (hereinafter called the 'Act') or under Rule 51 of the Arms Rules, 1962, but when the applications with regard to grant of licence were not being disposed of for months or years together, this Court issued direction for disposal of the applications of the arms licence within a time frame and in one such case, a Division Bench of this Court, about a decade ago, in the case of Dwivedy Surendra Vs. The State of Bihar and another (CWJC No. 13496 of 2004) reported in 2007(3) PLJR 76, directed all the licensing authority to dispose of all the pending applications for licence within a period of two



months in which the police report has been received and in case of non-receipt of the police report within a period of four months. Consequently, an advisory was issued by the State Government but in spite of that the licensing authority continued to behave in a callous manner, as a result, in Arms Rules, 2016, a specific time frame has been given for submission of police report as well as to take a decision by the licensing authority by a speaking and reasoned order on receipt of the police report. Rule 14 of Arms Rules, 2016 stipulates that the Officer-in-Charge of the nearest police station will submit the report within thirty days of receipt of the application, whereas Rule 13 of Arms Rules, 2016 stipulates that the licensing authority will take a final decision by a speaking and reasoned order either granting or refusing to grant the arms licence within sixty days of the receipt of police report, but in spite of the same the applications are being kept pending.

Hence, the action or inaction of the licensing authority is absolutely in violation of the statutory mandate. The whole system is in mess because licensing authorities have not maintained the priority list of the application as per their seriatim of filing. The applications are being dealt with on pick and choose method. It is high time that the District Magistrate, Bhagalpur should dispose of all the applications as per their seriatim of filing,



within a period of two months from the date of receipt/production of a copy of this order. So far as the petitioner is concerned, since the application of the petitioner is pending since 2016, it should be disposed of within a period of six weeks from the date of receipt/production of a copy of this order. The District Magistrate, Bhagalpur is directed to ensure that applications are not disposed randomly on pick and choose basis, and if, any sort of pick and choose, in disposed of applications brought into the notice of this Court, this Court will take a serious view of such arbitrariness being perpetuated and accountability will be fixed accordingly.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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