

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10480 of 2017

1. Shahnwaz Ahmad (Advocate), S/o-Sri Nasimuddin Ahmad, R/o-Mewati Tola, P.S.-Sasaram, District-Sasaram.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Home Department
2. District Magistrate, Rohtas, Sasaram
3. District Arm's Magistrate, Rohtas, Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Deovind Kumar Singh
For the Respondent/s	:	Mr. Md. Nadeem Siraj-GP 5 Mr. Dhurendra Kumar, AC to GP 5

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 21-12-2018

Heard Mr. Deovind Kumar Singh, learned
counsel for the petitioner and Mr. Dhurendra Kumar, learned
AC to GP-5.

The present writ application has been filed
for a direction to the Respondent No. 2, District Magistrate,
Rohtas at Sasaram, licensing authority under the Arms Act to
dispose of the application submitted for extending the area of
validity of the arms licence of the petitioner to whole of the
State of Bihar from the territorial jurisdiction of the district of
Rohtas.

It is submitted by learned counsel for the
petitioner that the petitioner being an Advocate of Civil Court,
Sasaram was granted licence for Pistol/Revolver in 2005 vide



Licence No. 01/2005 with its validity till 31.12.2007. Subsequently, the petitioner bought the Revolver and thereafter licence was renewed from time to time. The petitioner never violated the conditions of the licence but because of his professional occupation, he is required to travel within the State of Bihar, hence he wanted to get the area of validity of the licence extended to the whole of Bihar. The petitioner submitted an application before the licensing authority on 23.09.2011, as contained in Annexure 3 series. Thereafter the petitioner also submitted several reminders in this regard, the last one being dated 18.10.2016. It is further submitted that the petitioner came to know that the District Arms Magistrate, Rohtas, Sasaram vide letter No. 1806 dated 10th November, 2016 requested the Superintendent of Police, Rohtas, Sasaram for sending a report for extending the area of validity of the licence from Rohtas to whole of Bihar, but till date decision has not been taken. Hence, the present writ application.

Learned counsel for the petitioner further submits that since the petitioners submitted the last representation on 18.10.2016. He claims that his application for extending the area of validity of arms licence be considered under the Arms Rules, 2016.



AC to GP-5 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 any decision has not been taken till date, it will be taken by the licensing authority within a reasonable time frame.

In exercise of power conferred under the provisions of Arms Act, 1959 (Act 54 of 1959), the Central Government made Arms Rules, 2016 (hereinafter referred to as the Rules, 2016) and Arms Rules, 1962 was superseded. What is saved was the thing which was done under the old rule or omitted to be done before such supersession. The Arms Rules, 2016 came into force after its publication in the Gazette of India on 15.7.2016. Since the petitioner lastly represented on 18.10.2016 and claims his case to be governed under new Rules, hence Arms Rules, 2016 will apply to the petitioner. Rule 3 specifies the classification of arms and ammunition. For the purpose of the Act and Rules, the arms and ammunition have been categorized. In column (2) and (3) of Schedule I. Schedule II has been framed under Rule 4 of Rules, 2016 which prescribes the licensing authority for acquisition/possession/import and transport of various



categories of arms.

Rule 53 of Arms Rules, 1962 (hereinafter referred to as Rules, 1962) stipulates the variation of conditions of licences including extension of area of validity of licence.

Rule 53(1) reads as follows:

“53. Variation of conditions of licences.- (1)

On application from a licence-holder, a licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension, subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is sought.”

The above Rule suggests that the licensing authority can extend the area of validity of the licence if he is satisfied about the need of such extension and he has the power to grant licence.

In the present case, the application was made on 23.9.2011, hence, in exercise of the power under Rule 53 of Rules, 1962 the licensing authority ought to have decided the issue. However, Arm Rules, 2016 came into force with effect from 15th July, 2016 superseding the Rules, 1962, now the petitioner claims that his application be considered under



the provisions of Rules, 2016. The provisions of Rules, 2016 which relate to extend the area of validity of licence, are relevant to deal with.

Rule 19 of Rules, 2016 prescribes the mode of extension of area of validity of licence, which reads as follows:

“19. Extension of area validity of licence.— (1) On receipt of an application from a licensee holding a licence in Form III, the licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is being sought.

(2) The application for extending the area validity for whole of India may be granted by the licensing authority as specified in column (5) of Schedule II, in respect of the following category of licensees, namely:-

(a) Union Ministers or Members of Parliament;

(b) Personnel of Defence Forces and Central Armed Police Forces;

(c) Officers of All-India Services;

(d) Officers in the Government or Government Sector Undertakings or Public Sector Undertakings with liability to serve anywhere in



India;

(e) Dedicated sports persons and the sports persons specified in serial numbers (1) to (4) of the table in subrule (2) of rule 40.

(3) In other cases, where the licensing authority is satisfied that the nature of business or profession of the applicant requires him to carry arm or arms frequently beyond the existing jurisdiction and such a requirement may not be met by the issuance of a journey licence in Form XI of these rules, the

application for extending the area validity for whole of India may be granted by the licensing authority specified in column (5) of Schedule II to the applicant.”

Rule 19(1) of Rules, 2016 suggests that on receipt of an application from a licensee holding a licence in Form III, the licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is being sought. Sub-rule (2) of Rule 19 suggests that the licensing authority as specified in column (5) of Schedule II can extend the area validity for whole of India with regard to the category of licensees, namely, Union Ministers or Members of Parliament; Personnel of Defence Forces and Central Armed Police Forces; Officers of All-India Services; Officers in the



Government or Government Sector Undertakings or Public Sector Undertakings with liability to serve anywhere in India; or dedicated sports persons.

Sub-rule (3) of Rule 19 of Rules, 2016 stipulates that in other cases, where the licensing authority is satisfied that the nature of business or profession of the applicant requires him to carry arm or arms frequently beyond the existing jurisdiction and such a requirement may not be met by the issuance of a journey licence in Form XI, then in such circumstance, the application for extending the area validity for whole of India may be granted by the licensing authority specified in column (5) of Schedule II to the applicant.

Rule 16 of Rules, 2016 casts duty on licensing authority under National Database Arms Licence (NDAL). Rule 16(1) mandates that while the licensing authority granting or renewing a licence or at the time of providing any allied service to any licensee, shall ensure that the data of the transaction approved by him is simultaneously updated in the electronic format locally and on the NDAL system. The proviso to Rule 16 stipulates that for failure on the part of the licensing authority to update such data in the electronic format, the licensee shall not be held accountable.



Rule 16(2) of Rules, 2016 mandates the licensing authority to ensure compliance of delivery of different services specified in column (2) of Schedule V, within the time specified in column (4) of the said Schedule.

Schedule V of Rules, 2016 has been framed in exercise of power under Rule 16 of Rules, 2016 which prescribes the time limit for various services to be rendered by the licensing authority under Schedule II of the Rules. Column No.1 of Schedule V stipulates 16 kinds of services. However Sl. No. 17 stipulates any other service not specified within the 16 services, as stipulated in Column No. 1, therefore, altogether 17 services have been prescribed in Schedule V. Column (2) of Schedule V prescribes nature of services, Column (3) prescribes the specific Rule to which that service relates to and Column (4) prescribes the time frame for rendering those services. Column No.(2) of Serial No. 9 of Schedule V deals with the extension of area validity of licence and its column (4) stipulates disposal of application for extension of the area of validity of the licence by the licensing authority within 15 days from the date of receipt of application by the competent authority under Schedule II.

This Court is really dismayed to find that



the application of the petitioner for such relief is pending since 2011, yet no decision has been taken till date.

In view of the discussions made above, it is expected from respondent no. 2, District Magistrate, Rohtas, Sasaram to pass an order for extension of the area of the licence of the petitioner within fifteen days from the date of receipt/production of a copy of this order.

With the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

