

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14088 of 2018

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Kamayani Singh, W/o Sri Neelam Chandan, Resident of Mohalla-Shadikpur, P.O. Gulzarbagh, Patna. P.S. Alamganj, District and Town-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Patna.
3. District Arms Magistrate, Patna.
4. The Additional District Magistrate, (Arms), Patna.
5. Sub-Divisional Officer, Patna City.
6. Senior Superintendent of Police, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. B.N. Pandey, Advocate
Mr. Hansa Jha, Advocate

For the Respondent/s : Mr. Nadeem Seraj, GP-5
Mr. Shailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 31-07-2018

Heard Mr. B. N. Pandey, learned counsel for

the petitioner and Mr. Shailesh Kumar, learned AC to GP-5.

The present writ application has been filed for a direction to the respondent authorities, particularly, Respondent No. 2, District Magistrate, Patna, the licensing authority to take a final decision on the application of the petitioner pending for consideration for grant of licence of N.P. Bore Revolver/Pistol.

It is submitted by learned counsel for the petitioner that the husband of the petitioner is a businessman. The father-in-law of the petitioner is having an arms licence for N.P. Bore Revolver being Licence No. 398/1992. The said revolver



bearing no. 294511 was deposited before the Arms dealer namely, M/s Navin & Company for repair. In the meantime, the father-in-law of the petitioner namely, Prem Kumar Singh was murdered on 09.05.2012 and his dead body was thrown on railway track within the territorial jurisdiction of Agamkuan Police Station, leading to registration of Agamkuan P.S. Case No. 100 of 2012 under Sections 302, 201 and 379 of the Indian Penal Code. Subsequently, the petitioner for the safety of his life and property submitted an application through speed post for grant of licence of N.P. Bore Revolver in prescribed format along with relevant documents and affidavit on 20.10.2012, as contained in Annexure-2, before the District Magistrate, Patna. In pursuance to the notice by licensing authority, the petitioner appeared before the licensing authority but ultimately the application of the petitioner for the grant of arms licence was rejected by the licensing authority, i.e., District Magistrate, Patna vide order dated 21.11.2013, as contained in Annexure-3. Consequently, the petitioner challenged the said order in Arms Appeal No.41 of 2014 but since it was kept pending for considerable period, the petitioner preferred writ application vide C.W.J.C. No. 10775 of 2013 and a Bench of this Court vide order dated 21.09.2015, as contained in Annexure-4, directed the Appellate Authority to dispose of the said appeal



keeping in view the fact that the father-in-law of the petitioner was killed. The Divisional Commissioner, Patna vide order dated 26.04.2016 passed in Arms Appeal No. 41 of 2014, while dealing with the heirloom policy under which the heirs or nominee has to be given preference, remitted back the matter to the licensing authority, i.e., the District Magistrate, Patna. Consequently the petitioner submitted a representation along with appellate order on 07.09.2016 before the licensing authority, as contained in Annexure-5 series, and ultimately, when the petitioner came to know about the notification of the Central Government dated 15.07.2016, the petitioner made an application in the new prescribed format with bank challan of Rs.1,000/- as prescribed under Arms Rules, 2016 and also submitted indemnity bond incorporated in Rule 25(2) of Arms Rules, 2016, but till date, decision has not been taken on the application of the petitioner. Hence, the present Writ application.

Learned AC to GP-5 submits that, at present, he is not having any instruction whether any decision has been taken or not, but if decision has not been yet 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 matter



was remanded back by the Divisional Commissioner vide order dated 26.04.2016 and more than two years have already been lapsed, but there is nothing on the record to suggest that the licensing authority has taken any decision on the application of the petitioner. The action or inaction of the licensing authority is violative of the statutory provisions of the Arms Rules.

Initially, though, there was no time frame fixed for taking decision on the application submitted for grant of licence under Sections 13 and 14 of the Arms Act, 1959 or under the provisions of Arms Rules, 1962 but now in Arms Rules, 2016 there is a specific provision under Rule 14 which mandates that the S.H.O. of nearest police station will submit the police report within thirty days of receipt of the application, whereas Rule 13 mandates that the licensing authority will take a final decision by speaking and reasoned order in writing either refusing or granting the licence within a period of sixty days of the receipt of police report. It is high time that the slumber of the licensing authority should break. The whole mess has been created due to the laid back approach of the licensing authority under the Act, due to which the Court is over burdened by the writ applications relating to grant of licence, since the licensing authorities have not been disposing of



the application for grant of arms licence as per their seriatim.

In view of the discussions made above, it is expected from Respondent No. 2, the District Magistrate, Patna – cum- licensing authority to strictly dispose of the application within a time frame as incorporated in Rule 13 of the Arms Rules, 2016 as per the seriatim of the applications submitted. It is also expected from Respondent No. 2, the District Magistrate, Patna to dispose of the application of the petitioner within forty days from the date of receipt/production of a copy of this order. It is further expected from the licensing authority that while passing final order to give a thoughtful consideration with regard to the provisions under Rule 25 of Arms Rules, 2016, which suggests that preference has to be given to the heirs or nominee of the licensee.

Accordingly, with the above observation and direction, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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