

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2548 of 2018

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Shah Alam, Son of Late Md. Ashraf, M/s Rajdhani Stores, Residence of
Mohalla- Pathhar Ki Masjid, 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. Divisional Commissioner, Patna Division, Patna.
4. District Arms Magistrate, Patna.
5. Additional District Magistrate (Arms), Patna.
6. Sr. Superintendent of Police, Patna.
7. Station House Officer, Sultanganj Police Station, Patna.

.... Respondents.

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Appearance :

For the Petitioner/s : Mr. B. N. Pandey, Advocate
Mr. Hansa Jha, Advocate
For the Respondent/s : Mr. P.K. Verma, AAG-3
Mr. Dr. Mankeshwar Tiwari, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 21-08-2018

Heard Mr. B. N. Pandey, learned counsel for
the petitioner and Mr. Dr. Mankeshwar Tiwari, learned AC to
AAG-3.

The present writ application has been filed for
a direction to Respondent No. 2, District Magistrate, Patna to take
a final decision on the application for the arms licence of the
petitioner submitted for grant of DBBL gun as the Divisional
Commissioner, Patna remanded the issue of grant of licence to the
licensing authority, Respondent No. 2, District Magistrate, Patna



vide order dated 08.09.2015 passed in Arms Appeal No. 478 of 2014, as contained in Annexure-6.

The factual matrix of the case as per the pleadings of the writ application is that the petitioner's father was having a licence for DBBL gun bearing Licence No. 03 of 1986. When the father of the petitioner became too old, the petitioner, being a businessman submitted an application for grant of licence for DBBL gun for the safety of his life and property on 12.12.2005. Subsequently, the police made an enquiry and submitted a report in favour of the petitioner, but mechanically on the basis of a cryptic order dated 13.04.2007, as contained in Annexure-3, the licensing Authority, i.e., District Magistrate, Patna rejected the application of the petitioner. The said order was challenged by the petitioner in Arms Appeal No. 478 of 2014 before the Divisional Commissioner, Patna Division, Patna who vide order dated 08.09.2015, as contained in Annexure-6, allowed the appeal and remitted back the matter to the District Magistrate, Patna, for reconsideration of the case of the petitioner. In pursuance to the order passed by the Appellate Authority, the petitioner made an application on 30.11.2015 along with a copy of the order dated 08.09.2015, passed by Divisional Commissioner in the said appeal, as contained in Annexure-7, before the licensing



authority and subsequently, the petitioner, after coming into existence of Arms Rules, 2016 submitted an application along with affidavit, indemnity bond and required fee before the licensing authority on 08.08.2017 but till date, decision has not been taken on the application of the petitioner, in spite of several representations made by the petitioner.

Learned AC to AAG-3 submits that, at present, he is not having any instruction whether a decision has been taken on the application of the petitioner or not and he further submits that if decision has not been taken after remand order passed by the Appellate Authority, it will be decided by the licensing authority within a reasonable time frame.

This Court is shocked and dismayed to find that an application has been pending since last three years after having been remitted back by the Appellate Authority to the licensing authority to take a final decision which suggests that office of the licensing authority is absolutely non-functional, or it is functioning in the most callous manner. In Arms Rules, 2016, there is a time frame prescribed for transmission of the police report as well as for taking decision on the application of the petitioner. Rule 14 of the said Rules prescribes 30 days period for transmission of police report by Station House Officer of nearest



police station after receipt of the application, whereas Rule 13 prescribes 60 days period for taking a decision by reasoned and speaking order in writing either for granting or refusing to grant licence after receipt of the police report.

In the circumstances, it is expected from Respondent No. 2, District Magistrate, Patna not only to put his office in order but to also dispose of the application of the petitioner within four weeks of the receipt/production of a copy of this order within the parameters of Rules 13 and 14 of Arms Rules, 2016.

This writ application is disposed of with the aforesaid observation and direction.

(Dinesh Kumar Singh, J)

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