

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18439 of 2016

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Sanjeev Kumar, Son of Yadu Nandan Prasad, resident of Village- Nai Toligali,
Dalhatta Bazar, P.O.+P.S.- Basudeopur, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar through The Secretary Home (Police), Patna.
2. The District Magistrate, Munger.
3. The District Arms Magistrate, Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bijay Kumar Pandey, 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 JUDGMENT

Date: 10-05-2018

Heard Mr. Bijay Kumar 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 licensing authority, i.e., the District
Magistrate, Munger for grant of double barrel gun licence to the
petitioner for which he submitted an application to the licensing
authority, District Arms Magistrate, Banka on 11.08.2010.

It is submitted by learned counsel for the petitioner
that the petitioner is a Veterinary Doctor and is posted in Banka and



has to go to the remotest area of Suryagarha and Lakhisarai which are affected by naxalities and extremists and hence, he is having a serious threat to his life. Copy of the application has been brought on record as Annexure-1. The petitioner was threatened when he was posted at Banka which persuaded him to apply for grant of arms licence and consequently, he submitted an application. Subsequent thereto, the District Arms Magistrate, Banka after receiving the application of the petitioner called for a report from Superintendent of Police, Munger, who after due verification recommended the case of the petitioner for grant of licence. But, the District Arms Magistrate, Banka realizing that the petitioner is resident of Munger District, he transmitted the application of the petitioner to District Magistrate, Munger. Subsequently, the petitioner was transferred from Banka to Lakhisarai. Thereafter, the District Arms Magistrate, Munger vide Letter No. 222 dated 21.02.2015, as contained in Annexure-3, directed the petitioner to physically appear along with relevant papers on 21.02.2015. In response thereof the petitioner appeared and thereafter District Arms Magistrate, Munger called for a report from Superintendent of Police, Munger as well as Superintendent of Police, Lakhisarai with regard to the threat perception of the petitioner. Subsequently, the Superintendents of Police, Munger and Lakhisarai transmitted the report suggesting that the petitioner has to visit the



remotest area affected by naxalities and extremists and hence, he is having serious threat perception, but thereafter no action has been taken in spite of the fact that the petitioner submitted a representation before the Commissioner, Munger Division, who transmitted the representation of the petitioner to the District Magistrate, Munger, for the needful, vide Letter No. 4049 dated 22.12.2015, as contained in Annexure-5, but despite that also the District Magistrate, Munger has not taken any action. Hence, the present Writ application.

Mr. Shailesh Kumar, learned AC to GP-5 submits that, at present, he is not having any instruction. However, if the application of the petitioner has not been disposed of till date, then a final decision will be taken on the same within a specific time frame.

Having heard the learned counsel for the parties, it is true that neither Sections 13 & 14 of the Arms Act, 1959 (hereinafter referred to as the 'Act'), nor the Arms Rules, 1962 (hereinafter referred to as the 'Rules') prescribed a time frame for taking decision on the application submitted for grant of Arms licence. However, the Principal Secretary, Department of Home, Govt. of Bihar vide Memo No. 10010 dated 4th December, 2014 directed all the District Magistrates and Superintendent of Police in the State of Bihar, on the basis of directives of Department of



Home, Govt. of India issued vide letter No. 11016/16/2009 dated 31.03.2010, to send the application for grant of Arms licence, to the concerned Superintendent of Police immediately 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 final decision within 30 days, meaning thereby the whole exercise has to be made within maximum period of 75 days of receipt of such applications. However, under Arms Rules, 2016 a specific provision is incorporated under Rule 14, which prescribes the maximum period of transmission of police report by the concerned Officer-in-charge within 30 days, while Rule 13 prescribes the time limit for taking decision on such application by speaking order within a period of 60 days of receipt of the police report.

In the present case, the application of the Arms licence is pending since last 8 years, in spite of the fact that the police report was received by the licensing authority, almost three years prior to filing of the present writ application, as gets reflected from the pleadings made in the writ application. Under such circumstances, it is high time that the District Magistrate, Munger, licensing authority should take a final decision in accordance with the provisions of the Act and Rules, by a speaking order within a



period of six weeks from the date of receipt/production of a copy of this order.

Accordingly, this Writ application is disposed of.

DKS/-

(Dinesh Kumar Singh, J)

AFR/NAFR	NAFR
CAV DATE	23.05.2018
Uploading Date	NA
Transmission Date	NA

