

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.18742 of 2017**

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Sudhir Kumar Singh, S/o Late Dinanath Singh, Resident of Village- Sikta,  
P.S.- Sikta, District- West Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The Commissioner, Tiruht Division, Muzaffarpur.
3. The District Magistrate, West Champaran, Bettiah.
4. The Superintendent of Police, West Champaran, Bettiah.
5. The Arms Magistrate, West Champaran, Bettiah.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ravindra Kumar

For the Respondent/s : Mr. Manish Kumar, GP-4

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 28-08-2018**

Heard learned counsels for the parties.

Though the writ application was registered on  
18.12.2017, but no counter affidavit has been filed.

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

The present writ application has been filed for a  
direction to Respondent Authorities, particularly, Respondent No.  
3, the District Magistrate, West Champaran, Bettiah to take a  
decision on the application of the petitioner for grant of licence for  
S.B.B.L. Gun.



The factual matrix of the case is that the father of the petitioner late Dinanath Singh was having an arms licence for S.B.B.L. gun bearing Licence No. 234/72. During the life time of the father, the petitioner submitted an application on 10.01.2011 before the Licensing Authority, Respondent No. 3, the District Magistrate, West Champaran, Bettiah for grant of licence for S.B.B.L. gun. On death of the father of the petitioner, the petitioner deposited the arms and cartridges to an Arms dealer, namely M/s. Indian Gun House, Main Road, Bettiah on 06.09.2012. In the meantime, life threats were given to the brother and nephew of the petitioner, leading to submission of representation before the Respondent No. 4, the Superintendent of Police, West Champaran, Bettiah and Respondent No. 3, the District Magistrate, West Champaran, Bettiah on 27.09.2012 and 10.06.2013 respectively, as contained in Annexure Nos. 3 and 4. Though the petitioner's application for grant of licence was pending, petitioner again submitted an application for grant of licence of S.B.B.L. gun on 11.11.2014 to Licensing Authority , Respondent No. 3, the District Magistrate, West Champaran, Bettiah, but till date no final decision has been made.

It is submitted by learned counsel for the petitioner that for no reason the application of the petitioner has been kept



pending in spite of several representations, particularly bringing to the notice of the Licensing Authority the directives issued by the Ministry of Home, Government of India as well as by the Department of Home, Government of Bihar for giving preference while considering the application for grant of arms licence to the heirs and nominee of the licensee. Hence the present writ application.

Mr. Manish Kumar, learned counsel for the respondents submits that at present he is not having any instruction whether the application of the petitioner for grant of arms licence has been disposed of or not, but if decision has not been taken till date, on the application of the petitioner, the same will be taken within a time frame by the Licensing Authority.

To have an arms licence is not a fundamental right. It is a statutory right. Hence, every citizen cannot claim to have an arms licence, but at least, he has right to get a decision on the application submitted for such arms licence. In Arms Act, 1959 or in Arms Rule, 1962, there was no specific time frame fixed for a Licensing Authority to take a decision on the application submitted for grant of arms licence. However, Rule 14 of the Arms Rules, 2016 ( hereinafter referred to as 'the Rule, 2016') mandates the SHO of the nearest police station to transmit a police report to the



Licensing Authority within thirty days of the receipt of the application, whereas the Rule 13 of the Rules 2016 mandates the Licensing Authority to take a decision in writing by speaking and reasoned order either granting or refusing to grant the arms licence within sixty days of the receipt of the police report. There is nothing on record to suggest that in the present case the police report has been submitted. However proviso to Sub-Section 2-A of Section 13 of the Arms Act mandates that the Licensing Authority may, if it deems fit, make such order, after the expiry of the prescribed time, if the police has not submitted the report within a prescribed time. Though the prescribed time has not been defined in the aforesaid proviso of the Arms Act, but the same has been interpreted by this Court in the case of Uday Narain Singh V/s the State of Bihar and Others 2008(1) PLJR 647 being a period of one month.

So far as the issue of grant of licence to heirs or nominee of the licensee is concerned, there was no specific time frame either in Arms Act, 1959 or in Arms Rules, 1962. However through an executive instruction, the Ministry of Home, Government of India issued direction to consider the application for grant of licence to the heirs and nominee of such licensee, who has either attained age of seventy years or has been holding licence



for twenty five years. Consequent instructions were issued by Department of Home, Government of Bihar also, but it appears that it did not bear any positive impact on the Licensing Authority, as a result, in Rule 25 of Rules 2016, specific provision has been inserted for giving preference to heirs or the nominee of the licensee for consideration of grant of arms licence. With insertion of Rule 25 the consideration of the grant of licence to heirs or nominee of the licensee is placed slightly above the general applicant because in such cases, it has the element of transfer of licence, though the licence cannot be transferred under law, because everybody must have a licence to have arms. If a time limit of altogether three months have been prescribed in Rules 13 and 14 for deciding the issue for grant of licence to freshers, in view of this Court, the application of heirs and nominees of the licensee for grant of such licence should be considered more expeditiously in view of the fact that heirs or nominees have to face the rigors of making payment of rent to the Arms dealer, where the arms and ammunition have been deposited.

There is nothing on record to suggest that the application of the petitioner has been disposed of.

In view of the discussions made above, it is expected from Respondent No. 3, the District Magistrate, West Champaran,



Bettiah to take a final decision on the application of the petitioner within a period of six weeks.

Accordingly, this writ application is disposed of.

**(Dinesh Kumar Singh, J)**

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