

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8787 of 2017

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Md. Raghiv Azam, Son of Habibur Rahman, Resident of Mohalla - Shantipuri, P.O.-Motihari, P.S.-Motihari Town, District-East Champaran (Motihari).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, East Champaran at Motihari
3. The District Arms Magistrate, East Champaran at Motihari
4. The Superintendent of Police, East Champaran at Motihari
5. Station House Officer, Motihari Town P.S. Under the District of East Champaran at Motihari

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-03-2018

Heard learned Counsels for the petitioner and the respondents.

The present Writ application has been filed for a direction to the licensing authorities, i.e., the respondent no2, the District Magistrate, East Champaran at Motihari to dispose of the application of the petitioner preferred for grant of N.P. Bore rifle licence.

The factual matrix as gets unveiled is to the effect that the petitioner submitted an application for grant of licence of N.P. Bore rifle in the year 2010 before the licensing authority, i.e., the respondent no.2, the District Magistrate, East Champaran at



Motihari. The police verification was made twice and the police recommended the case of the petitioner for grant of arms licence, but the same has not been granted to him. Hence, the present Writ application.

Learned AC to GP-4, appearing on behalf of the respondents submits that though no counter affidavit has been filed on behalf of the licensing authority, i.e., the District Magistrate, but a counter affidavit has been filed on behalf of the respondent nos. 4, the Superintendent of Police, East Champaran at Motihari and respondent no.5, the Station House Officer, Motihari. A specific statement has been made in paragraph no.8 of the said counter affidavit that after proper verification the police recommended the case of the petitioner to the Licensing Authority, District Magistrate, East Champaran at Motihari for further course of action and decision. But if the application of the petitioner has not been disposed of till date, the same will be disposed of within a time frame.

Section 13 of the Arms Act, 1959 (hereinafter referred to as 'the Act') stipulates the provision for grant of licence, on application being made along with the prescribed fee. On receipt of such application, the Licencing Authority has to call for a report from the Officer-in-Charge of nearest police station and



the Officer-in-Charge has to transmit the report within a prescribed limit and the Licencing Authority, after considering the police report, has either to grant licence or refuse to grant licence, provided, where the officer in charge of the nearest police station does not send report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time. However, Section 13 of the Act does not prescribe any time limit for disposal of such application nor prescribes the time limit for the police to transmit report.

Rule 51 of Arms Rules, 1962 (hereinafter referred to as 'the Rules'), however, deals with the application for licence but it basically deals with the format in which the application is made with regard to different kinds of arms for which the licence is sought for. Section 51 of the Rules also does not stipulate any time limit for disposal of application made for grant of arms licence. However, considering the apathetic attitude of Licencing Authorities in disposal of the application for grant of arms licence, a Division Bench of this Court, in the case of Dwivedy Surendra, Advocate Vs. The State of Bihar and Ors., 2007(3) PLJR 76 directed the Home Secretary, Government of Bihar to write a letter to the Inspector General



of Police of all the Divisions with a copy to all the Superintendents of Police directing them to issue direction to the concerned police officers to send the verification report to the District Magistrate of the district within a period of one month. The District Magistrates were directed to dispose of all the pending application submitted for grant of arms licence within two months where the police reports have been received by the licensing authority and in other case within a period of four months where the police report has not been received by the licensing authority. In case of disobedience of the order, the court directed to take stern action against the concerned police officer. Consequently, directives were issued by the Department of Home, Govt. of Bihar.

Visualizing the undue delay for disposal of such application by the licensing authority, it appears that the Legislature introduced Rules 13 and 14 in the Arms Rules, 2016, which prescribes time limit for grant of licence and the time limit for submission of police report to the Licencing Authority. Rule 13 of the Rules 2016 specifically suggests that the Licencing Authority, on considering the application and on being satisfied that the applicant has fulfilled the eligibility conditions, shall grant or refuse to grant a licence for



permissible category of arms or ammunition specified in category III of Schedule I, to any person by recording in writing the reasons for such grant or refusal, by passing a speaking order, within a period of sixty days of the receipt of the police report. Rule 14 of the Arms Rules, 2016 prescribes the time limit of thirty days for the police/Officer-in-Charge of a Police Station to submit its report in Form-S-4, to the Licensing Authority, on his asking while Rule 14(2) speaks of extending the time period for submitting the police report from thirty days to ninety days for certain areas or states, for appropriate reason.

Though a counter affidavit has been filed on behalf of the respondent no.4, the Superintendent of Police, East Champaran at Motihari, but it does not suggest the date on which the police report was transmitted to the District Magistrate. However, it appears that it has been transmitted much earlier.

Having heard learned counsels for the parties, this Court is really dismayed to find that even though the Arms Act, 1959 provides for issuance of arms licence to people for personal safety and security, as also the security of property, but the petitioner has been waiting for grant of licence for N.P. Bore rifle since last several years.



In view of the discussions made above, respondent no.2, the District Magistrate, East Champaran at Motihari, is expected to dispose of the application of the petitioner, in accordance with the provisions of the Arms Act, 1959, preferably within a period of eight weeks, from the date of receipt/production of a copy of this order.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	31.03.2018
Transmission Date	NA

