

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18674 of 2017

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Manishankar Kumar, S/o Madhusudan Prasad Singh, Resident of Village-Naipokhar, P.S. + P.O.-Rajgir, District-Nalanda, at Present Working in 159 Batalian, Jail Prisar, Rampur, Force.No. 913256036 Rann H.E.G.D., Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Administrative department, Govt. of Bihar, Patna.
2. The Secretary, Home Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Patna.
4. The District Magistrate Cum Collector, Nalanda.
5. The District Superintending of Police, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bankey Bihari Singh, Advocate
For the Respondent/s : Mr. Md.N.H.Khan, SC-1
Mr. Md. Harun Kuraisi, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 24-09-2018

Heard Mr. Bankey Bihari Singh, learned counsel for the petitioner and Mr. Harun Kuraisi, learned AC to SC-1.

The present writ application has been filed for a direction to respondent no. 4, District Magistrate –cum- Collector, Nalanda –cum- Licensing Authority under the Arms Act to pass order in view of the order of the Appellate Authority, the Divisional Commissioner, Patna, respondent no. 3 dated 26.04.2016 passed in Arms Appeal No. 848 of 2014.

The factual matrix of the case is that the



petitioner being a Government Servant (now retired) submitted an application on 17.08.2011 for grant of arms licence for N.P. Bore Revolver/Pistol. Subsequently, the petitioner came to know that vide order dated 13.12.2011 the District Magistrate, Nalanda has rejected the application of the petitioner vide order dated 03.12.2011 on the ground that the petitioner is not having threat perception. The said order was challenged by the petitioner in Arms Appeal No. 848 of 2014 before the Divisional Commissioner, Patna, who vide order dated 26.04.2016 while considering the Rules and provisions of the Arms Act and Rules, 2016 directed the Magistrate to take a decision afresh with regard to grant of licence after obtaining a fresh police report, Despite the above, then the District Magistrate has not taken any decision. Hence, the present writ application.

Learned AC to SC-1 submits that, at present, he is not having any instruction whether any decision has been taken on the application of the petitioner or not, but he further submits that if any decision has not been taken till date, it will be taken by the licensing authority within a reasonable time frame.

The provisions under Rules 13 and 14 of Arms Rules, 2016, stipulates a time frame for submission of the police and to pass an order on the application submitted for grant of



licence. Rule 14 of Arms Rules, 2016 stipulates that on receipt of the application for grant of arms licence, the licensing authority shall call for a report from Officer-in-Charge of the nearest police station, who shall submit the report within thirty days of receipt of the application by him, whereas Rule 13 of Arms Rules, 2016 stipulates that the licensing authority after considering the application and on being satisfied that the applicant has fulfilled the eligibility condition shall take a final decision by a speaking and reasoned order in writing either granting or refusing to grant the arms licence within sixty days of the receipt of police report.

In the present case, the remand order was passed on 26.04.2016, it seems that the slumber of the licensing authority has not broken, despite two and a half years having passed.

In the circumstances, it is expected from respondent no. 4, District Magistrate, Nalanda to take decision in the matter within four weeks from the date of receipt/production of a copy of this order, keeping in view Rule 12 of Arms Rules, 2016, whereby an obligation has been cast upon the licensing authority in certain cases and one of them is that the person who is having life threat has to be given preference. However, the provisions under Rule 12 does not prohibit the licensing authority



to consider the grant of licence if any application does not fall in one of the categories stipulated in Rule 12.

With the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

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