

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13269 of 2018

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Swati, W/o Himanshu Shekhar, Rental Flat No. 248, Tempo Stand, Lohiya Nagar, Kankarbagh, Patna- 20, At present Flat No. 105/C, Vasudeo Enclave Apartment, Main Road, Kankarbagh, P.S.- Kankarbagh, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. Senior Superintendent of Police, Patna.
5. Additional District Magistrate (Arms), Patna.
6. District Arms Magistrate, Patna.
7. Sub-Divisional Officer, Sadar Patna.
8. S.H.O. Kankarbagh Police Station, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hansa Jha, Advocate
For the Respondent/s : Mr. P.K. Verma, AAG-3
Mr. S.K. Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 23-07-2018

Heard Ms. Hansa Jha, learned counsel for the petitioner and Mr. S.K. Jha, learned AC to AAG-3.

The present writ application has been filed for a direction to Respondent No. 3, District Magistrate, Patna to take a final decision on the application of the petitioner for grant of licence for N.P. Bore Revolver/Pistol in view of order dated



26.04.2016 passed by Divisional Commissioner, Patna Division, Patna in Arms Appeal No. 312 of 2014, as contained in Annexure-1.

The factual matrix of the case is that the petitioner being a teacher in a private school made an application for grant of N.P. Bore revolver/pistol in the year 2013. Thereafter, it is learnt by the petitioner that the police recommended the case of the petitioner and after receipt of the police verification report, a notice was issued by the licensing authority to the petitioner. The petitioner appeared before the licensing authority –cum-District Magistrate, Patna and submitted the documents suggesting the need for grant of licence for revolver/pistol, but the District Magistrate has rejected the application of the petitioner on the ground that the petitioner is not having any threat to her life and property and there is no threat perception to the petitioner. The Senior Superintendent of Police, Patna had recommended the case of the petitioner without raising the issue of threat perception the application of the petitioner was rejected vide order dated 30.01.2014 passed in Arms Case No. 9-766/2013 on the ground that the petitioner has no valid reason for getting the licence.

The order of the District Magistrate was challenged by the petitioner in Arms Appeal No. 312 of 2014



before the Divisional Commissioner, Patna Division, Patna. The Appellate Authority vide order dated 26.04.2016 remanded the matter with a direction to the licensing authority that since considerable time has lapsed, hence, police report be called for and thereafter to take a final decision on the application of the petitioner, but till date no final decision has been taken and hence, the present writ application. It is further submitted by learned counsel for the petitioner that now the petitioner has made an application in new format as prescribed under Arms Rules, 2016 and on the said application the police report is in favour of the petitioner on 17.12.2017, statement to that effect has been made in paragraph 9 of the petition, but more that six months has lapsed after receipt of police report no decision has been taken by the licensing authority.

Learned AC to AAG-3 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 if no decision has been taken till date, it will be taken by the licensing authority within a time frame.

It is not in dispute that neither Section 13 and 14 of the Arms Act, 1959, nor the provisions under Arms Rules, 1962 prescribed for disposal of application for grant of



arms licence, any time limit but that does not mean that the application can be kept pending for months or years together. After coming into operation of Arms Rules, 2016, the licensing authority cannot now keep such applications pending for long, in view of specific provision in Rule 13 and 14 of Arms Rules, 2016 with regard to submission of police report and thereafter, for taking a final decision by the licensing authority. Rule 14 prescribes thirty days time for transmission of police report from the date of receipt of application, whereas Rule 13 prescribes sixty days time for licensing authority to take a final decision in writing by speaking and reasoned order, either granting or refusing to grant the licence from the date of receipt of police report. Hence, the action of the licensing authority is not only contrary to the statutory provisions but it is also absolute and unmitigated disrespect to the remand order of the Divisional Commissioner. Such mess in taking any decision can be attributed to the fact that the office of the licensing authority does not maintain any priority list of applications, as per their serialim of filing. It is high time that the slumber of licensing authority, particularly, District Magistrate, Patna should break and the office of District Magistrate, Patna should prepare a list of pending applications, as per their serialim of filing and all such applications must be



disposed of within a period of eight weeks as per seniority.

In the circumstances, it is expected from licensing authority, i.e., District Magistrate, Patna, Respondent No. 3 to take a final decision on the application of the petitioner within a period of six weeks from the date of receipt/production of a copy of this order in view of the remand order passed by the Appellate Authority.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

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