

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15987 of 2018

=====

Ramesh Dubey, S/o Late Uma Shankar Dubey, R/o Mohalla Kalisthan
Company Sarai, Sasaram, P.S.-Sasaram, District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Rohtas, Sasaram
2. The District Arms Magistrate, Rohtas at Sasaram.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. S.C. Melhotra, Sr. Advocate

Mr. Binod Kumar Sinha, Advocate

For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

Mr. Harshvardhan Singh Sundaram, AC to SC-8

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 07-09-2018

Heard Mr. S. C. Melhotra, learned Senior

counsel for the petitioner and Mr. Harshvardhan Singh Sundaram,
learned AC to SC-8.

The present writ application has been filed for
a direction to Respondent No. 1, the District Magistrate, Rohtas at
Sasaram to take a final decision on the application of the petitioner
for grant of licence for N.P. Bore Rifle.

The factual matrix of the case is that the uncle
of the petitioner, namely, Sri Shiv Shankar Dwivedi is holding a
licence of N.P. Bore Rifle being Licence No. 29/02 issued by
Respondent No. 1. The said licence was renewed from time to



time and it was never misused. Sri Shiv Shankar Dwivedi is issueless and is aged about 80 years. The petitioner being the nearest legal heir, Shiv Shankar Dwivedi submitted a letter to the District Magistrate, Rohtas at Sasaram, desiring to transfer the licence of the rifle in favour of the petitioner being his legal heir, on 19.03.2013, as contained in Annexure-1. Thereafter, the police report was obtained and the petitioner was directed to appear before the licensing authority. But in spite of the police report in favour of the petitioner the licence was not issued. Subsequently, vide Memo No. 2250 dated 09.11.2017 the Respondent No. 2, the District Arms Magistrate, Rohtas at Sasaram directed the petitioner to submit the application in new format under Arms Rules, 2016, whereupon, on 28.11.2017 the petitioner submitted application for grant of arms licence in new format under Arms Rules, 2016. But, till date decision has not been taken on the application of the petitioner, in spite of the fact that under Rule 25 [1(b)] of Arms Rules, 2016, the licensing authority has to give preference to such applicants, who are heirs of the licensee, who has attained the age of 70 years or has a holder of licence for 25 years provided the such applicant fulfills the eligibility criteria and there is no adverse remark in police report. Both criteria applies in the case of the petitioner.



Learned AC to SC-8 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 yet been taken till date, it will be taken by the licensing authority within a reasonable time frame.

Rules 13 and 14 of the Arms Rules, 2016 prescribe the time frame for submission of the police report, as well as for passing reasoned order by the licensing authority as Rule 14 of Arms Rules, 2016 stipulates that the Officer Incharge of the nearest police station will submit the report within thirty days of receipt of the application, on the asking of such report by the licensing authority, whereas Rule 13 of Arms Rules, 2016 stipulates that the licensing authority will take a final decision by a speaking and reasoned order either granting or refusing to grant the arms licence within sixty days of the receipt of police report. Schedule V of Arms Rules, 2016 prescribes time limit for the licensing authority concerning exercise of jurisdiction for various services under the Rules. Item No. 1 is the police verification under Rule 14 which also prescribes a period of thirty days from the receipt of the application whereas Item No. 2 is for the grant or refusal of a licence under Rule 13 which mandates sixty days period on receipt of the police report under



Rule 14. This fact has not been controverted that the petitioner submitted application in 2011. Though, at that time the Arms Rules, 2016 was not applicable but the application was not disposed of which is suggestive of the casual approach and the latches on the part of the licensing authority.

The petitioner applied again in new format on 28.11.2017, but in spite of that the licence has not been granted to the petitioner. Rule 25 of Arms Rules, 2016 mandates procedure for the grant of licence to the legal heirs/nominee of the licensee who has attained the age of 70 years or has been a holder of licence for 25 years. Both the grounds apply in the case of the petitioner, but in spite of that preference was not given to such applicant for grant of a licence to a person, even though the provision is there under Section 13 of the Act. The incorporation of the said provision under Rule 25 for grant of licence to the legal heirs is a mandate to give preference to such applicants who are heirs or nominee of the licensee, but the licensing authority failed to understand the purport of the legislative intent.

In view of the discussions made above, it is expected from Respondent No.1, District Magistrate, Rohtas at Sasaram to take a final decision on the application of the petitioner by a reasoned and speaking order in writing keeping in view the



provisions under Rule 25 of the Arms Rules, 2016 within a period of six weeks from the date of receipt/production of a copy of this order.

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

(Dinesh Kumar Singh, J)

DKS/-

U			
---	--	--	--

