

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20301 of 2018

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Dhiraj Kumar, S/o Sri Dinkar Prasad Yadav, Resident of Village – Lagar,
P.S. – Parbatta, District – Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Govt. of Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The Sub-Divisional Officer, Gogri, Khagaria.
5. The Deputy Superintendent of Police, Gogri, Khagaria.
6. The Station House Officer, Parbatta Police Station, District – Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate
For the Respondent/s : Mr. Prabhat Kumar Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 11-10-2018

Heard Mr. Manoj Kumar Singh, learned counsel for the petitioner and Mr. Sanjay Kumar Ghosarvey, learned AC to AAG-3.

The present writ application has been filed for a direction to Respondent No. 2, the District Magistrate, Khagaria –cum- licensing authority under the Arms Act to take a decision on the application of the petitioner submitted on 28.11.2011 for grant of licence for N.P. Bore Rifle.

It is submitted by learned counsel for the



petitioner that the petitioner being a businessman runs a brick kiln and haivng threat to his life and property since he was kidnapped which led to registration of Parbatta P.S. Case No. 16 of 2011 with accusations under Sections 364 and 384 of the Indian Penal Code, submitted application before the District Magistrate, Khagaria on 28.11.2011 for grant of arms licence for N.P. Bore Rifle. It is learnt by the petitioner that the police made recommendation in favour of the petitioner, but in spite of that decision has not been taken on the application of the petitioner. Hence, the present writ application.

Mr. Sanjay Kumar Ghosarvey, 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 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.

It appears that the licensing authority has not bothered to discharge their statutory obligations as has been delegated to his office under the Arms Act, 1959 and the Arms Rules, 2016. It is very shocking to **know** that a person who was kidnapped, he submitted an application for grant of arms licence, in the year, 2011 but the same is still pending for disposal.



Though, there is no time frame prescribed under the Act, or in the Arms Rules, 1962, which has now been substituted by Rules, 2016, yet the licensing authority being a State functionary was expected to dispose of the application within a reasonable time frame, particularly in view of the Advisories issued in this regard by the Central and State Authorities and also in view of the time frame fixed by this Court, for disposal of the application submitted for grant of arms licence, particularly in the case of Dwivedy Surendra Vs. The State of Bihar, reported in 2007(3) PLJR 76, wherein it had been directed to the effect that the applications pending before the District Magistrate for grant of arms licence wherein police report has been received, be disposed of within two months and such applications wherein police report is awaited, be disposed of within four months from the date of order.

In schedule V of Arms Rules, 2016 prescribes the time frame for seventeen types of services to be rendered by the licencing authority. Serial No.1 prescribes thirty days time for submission of police report, whereas serial no.2 stipulates sixty days time for grant or refusal of a licence. Rule 14 mandates 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 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. There is nothing on record to suggest that any order has been passed by the licensing authority. Rule 12 of Arms Rules, 2016 prescribed obligation of the licensing in certain cases. Sub-Rule 3 of Rule 12 of Arms Rules, 2016 mandates for grant of licence for permissible category of arms and ammunition specified in category III in Schedule I, the licensing authority, based on the police report may consider the application of such person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and property. Rule 12(3)(a) reads as follows:-

“(a) any person who by the very virtue of his business, profession, job or otherwise has genuine requirement to protect his life and/or property.”

In view of the aforesaid discussions, this Court feels that it is high time that the slumber of the District Magistrate, Khagaria should break and if decision has not been



taken on the application of the petitioner till date, it is expected from Respondent No. 2, the District Magistrate, Khagaria to take a decision on the application of the petitioner within a period of four 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)

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