

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15181 of 2017

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Sri Vikash Kumar Singh @ Vikash Kumar S/o Sri Shayam Bihari Singh
Resident of Village-Bhabua Ward N. 3, P.S. Bhabua District Kaimur at
Bhabua

.... Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Patna, Bihar.
2. The Commissioner Patna Division.
3. The District Magistrate, Kaimur at Bhabua.
4. The Superintending of Police, Kaimur at Bhabua.
5. The District Arms Magistrate, Kaimur at Bhabua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh, Advocate
For the Respondent/s : Mr. Manish Kumar, GP-4
Mr. Ajay Kumar, AC to GP-4

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

02/ 13-09-2018

Heard Mr. Dharmendra Kumar Singh, learned

counsel for the petitioner and Mr. Ajay Kumar, learned AC to GP-

4.

The present writ application has been filed for
a direction to Respondent No. 3, the District Magistrate, Kaimur at
Bhabua to take a final decision on the application of the petitioner
submitted on 03.12.2012 for grant of arms licence for N.P. Bore
Rifle.

It is submitted by learned counsel for the
petitioner that the petitioner is an agriculturist and he is having
threat to his life and property as he resides in an extremist infected



area and therefore, he submitted an application on 03.12.2012 for grant of arms licence for N.P. Bore Rifle which led to registration of Licence Case No. 76 of 2013-14. Consequently, the police submitted its report recommending the case of the petitioner for arms licence, but in spite of that, the decision has not been taken on the application of the petitioner. Hence, the present writ application.

Mr. Ajay Kumar, learned AC to GP-4 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.

In view of this Court if a citizen applies for an arms licence then the decision on such application has to be taken with utmost urgency, particularly, considering the nature of the discretion being exercised by the licensing authority.

Rule 14 of Arms Rules, 2016 stipulates that licensing authority on receipt of any application for grant of licence under Section 13(1) or on any renewal of such licence under Section 15 of Arms Act, 1959 shall call for a report from the 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. Rule 12 of Arms Rules, 2016 mandates the obligation of the licensing authority in certain cases. Sub-rule 2(a)(i) of the Rules, 2016 further mandates that the preference has to be given to such person who is resident of a geographical area or areas where militants, terrorists or extremists are most active while considering to grant licence for restricted arms.

Rule 12 stipulates the grant of licence of permissible category to a person who by virtue of his business, profession or job or otherwise or being a sports person or who either in service or being served defence forces, Central armed police forces or the State police force and has genuine requirement to protect his life and/or property. Sub-Rule 3 of Rule 12 reads as follows:-

“(3) For grant of a licence for the permissible arms or ammunition specified in category III



in Schedule I, and without prejudice to the provisions contained in clause (a) of sub-section (3) of section 13, the licensing authority, based on the police report and on his own assessment, may consider the applications of-

- (a) any person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and/or property; or
- (b) any dedicated sports person being active member for the last two years, of a shooting club or a rifle association, licensed under these rules and who wants to pursue sport shooting for target practice in a structured learning process; or
- (c) any person in service or having served in the Defence Forces, Central Armed Police Forces or the State Police Force and has genuine requirement to protect his life and/or property.”

However, from various orders of licensing



authorities it appear that they interpret such categorized obligation as mandatory precondition for grant of arms licence. It is clarified that such categories of persons as stipulated in Rule 12 have to be given preference but that does not mean that other applications cannot be considered by the licensing authorities.

The main reason for delay in taking decision on the application submitted for grant of licence is that the licensing authorities take decisions on such applications by adopting pick and choose method. They do not have any seriatim list of the application submitted before them. Now, it is high time that the licensing authorities, particularly, the District Magistrate, Kaimur at Bhabua gets all the applications numbered as per their date of submission so as to have a seniority list of the application and decide all the applications as per the seriatim within a time frame as prescribed under Rules 13 and 14 of the Arms Rules, 2016, only then this Court can expect that the mess could be cleared.

Let the seriatim list be uploaded on the local database and also on the State database so that licensing authority do not adopt any pick and choose method.

In view of the discussions made above, it is expected from Respondent No. 3, the District Magistrate, Kaimur at Bhabua to take a final 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, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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