

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11639 of 2017**

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Santosh Kumar Pathak, S/o Sri Arjun Kumar Pathak, Resident of Village-  
Raghunathpur, P.O.- Bhalsuri (Nokha), P.S.- Nokha, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Bihar, Patna.
2. The Principal Secretary, Home Department, Bihar, Patna.
3. The District Magistrate, Rohtas (Sasaram).
4. The Superintendent of Police, Rohtas.
5. The Sub-Divisional Officer, Sasaram.
6. The Officer-in-Charge, P.S.- Nokha, District- Rohtas.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Adv.  
For the Respondent/s : Mr. Md. Harun Quaraishi, AC to SC-1

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

**ORAL JUDGMENT**

**Date : 25-06-2018**

Heard learned Counsels for the petitioner and the respondents.

Learned counsel for the petitioner is permitted to make necessary correction in the writ application.

The present Writ application has been filed for a direction to the licensing authorities to pass appropriate order on the application of the petitioner submitted before the licensing authority, i.e., the Respondent No.3, the District Magistrate, Rohtas for grant of licence of N.P.Bore Rifle.

This writ application has been registered on 11.08.2017, but no counter affidavit has been filed, moreover, in



view of the nature of order this Court intends to pass, there is no need of adjourning the matter any further.

It is submitted by learned counsel for the petitioner that the petitioner being a contractor, apprehending threat to his life and property, submitted an application before the Respondent No.3, the District Magistrate, Rohtas with a prayer for grant of arms licence for N.P. Bore rifle on 13.09.2013, as contained in Annexure-2, Earlier, the petitioner lodged Nokha P.S. Case No.147 of 2015 on 31.07.2015, levelling accusation under Section 363/379 of the IPC, since the petitioner and his driver were kidnapped and ultimately his driver was killed, subsequently Section 302 of the I.P.C. was also added. The police after proper verification recommended the case of the petitioner for grant of arms licensee, but till date the application of the petitioner has been kept pending. Hence, the present writ application.

Learned AC to GP-5, appearing on behalf of the respondents 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 the application of the petitioner has not been disposed of till date, it will be disposed of within a time frame as directed by



this Court.

Section 13 of the Arms Act, 1959 (hereinafter referred to as 'the Act') stipulates the provision for grant of licence, on application being made along with the prescribed fee. On receipt of such application, the Licensing Authority has to call for a report from the Officer-in-Charge of nearest police station and the Officer-in-Charge has to transmit the report within a prescribed time limit and the Licensing Authority, after considering the police report, has either to grant licence or refuse to grant licence, provided, where the officer in charge of the nearest police station does not send report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time. However, Section 13 of the Act does not prescribe any time limit for disposal of such application nor prescribes the time limit for the police to transmit report.

Rule 51 of Arms Rules, 1962 (hereinafter referred to as 'the Rules'), however, deals with the application for licence but it basically deals with the format in which the application is to be made with regard to different kinds of arms for which the licence is sought for. Section 51 of the Rules also does not stipulate any time limit for disposal of application made for



grant of arms licence. However, considering the apathetic attitude of Licencing Authorities in disposal of the application for grant of arms licence, a Division Bench of this Court, in the case of *Dwivedy Surendra, Advocate Vs. The State of Bihar and Ors.*, reported in 2007(3) PLJR 76 directed the Home Secretary, Government of Bihar to write a letter to the Inspector General of Police of all the Divisions with a copy to all the Superintendents of Police directing them to issue direction to the concerned police officers to send the verification report to the District Magistrate of the concerned districts within a period of one month. The District Magistrates were directed to dispose of all the pending application submitted for grant of arms licence within two months where the police reports have been received by the licensing authority and in other case within a period of four months where the police report has not been received by the licensing authority. In case of disobedience of the order, the court directed to take stern action against the concerned police officer. Consequently, directives were issued by the Department of Home, Govt. of Bihar.

Visualizing the undue delay for disposal of such application by the licensing authority, it appears that the



Legislature introduced Rules 13 and 14 in the Arms Rules, 2016, which prescribes time limit for grant of licence and the time limit for submission of police report to the Licencing Authority. Rule 13 of the Rules 2016 specifically suggests that the Licencing Authority, on considering the application and on being satisfied that the applicant has fulfilled the eligibility conditions, shall grant or refuse to grant a licence for permissible category of arms or ammunition specified in category III of Schedule I, to any person by recording in writing the reasons for such grant or refusal, by passing a speaking order, within a period of sixty days of the receipt of the police report. Rule 14 of the Arms Rules, 2016 prescribes the time limit of thirty days for the police/Officer-in-Charge of a Police Station to submit its report in Form-S-4, to the Licensing Authority, on his asking while Rule 14(2) speaks of extending the time period for submitting the police report from thirty days to ninety days for certain areas or States, for appropriate reason.

In the present case, it appears that the police report has been received by the licensing authority in 2015 itself, but for no reason, the licensing authority has not disposed of the application of the petitioner till date.



Having heard learned counsels for the parties, this Court is really dismayed to find that even though the Arms Act, 1959 provides for issuance of arms licence to people for personal safety and security, as also the security of property, but the petitioner has been waiting for grant of licence for N.P. Bore rifle since last several years.

In view of the discussions made above, Respondent No.3, the District Magistrate, Rohtas, is expected to dispose of the application of the petitioner, in accordance with the provisions of the Arms Act, 1959, preferably within a period of six weeks, from the date of receipt/production of a copy of this order.

The Writ application is, accordingly, disposed of.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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