

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19624 of 2018

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Upendra Kumar Singh Son of Late Dayanand Singh, Resident of Village-
Bhaluhi, Police Station- Marhowrah, District- Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Govt. of Bihar, Patna.
2. The Commissioner, Saran at Chapra.
3. The District Magistrate, Saran at Chapra.
4. The District Arms Magistrate, Saran at Chapra.
5. The Sub- Divisional Police Officer, Marhowrah, Saran at Chapra.
6. The S.H.O. Marhowrah Police Station, Marhowrah, Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Ban Bihari 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/ 05-10-2018

Heard Mr. Pramod Ban Bihari 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. 3, the District Magistrate, Saran at
Chapra to take a decision on the application of the petitioner
submitted for grant of licence for Revolver/Pistol.

It is submitted by learned counsel for the
petitioner that the petitioner is a big farmer and was a Member of
Zila Parishad feeling in secure to his life and property submitted
an application on 16.01.2008 before the District Magistrate, Saran



at Chapra for grant of licence for Revolver/Pistol but the said application was kept pending and ultimately Licence Case No. 352 of 2016 was registered but till no decision has 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.

The only issue involved in the present writ application is whether the citizen of the State has to file writ application for a reminder to the statutory authority to perform his duty as prescribed under the statute.

This Court is dismayed to find that the application was submitted in 2008 and it is pending since last ten years. Though there was no time frame fixed for taking decision on the application submitted for grant of licence either under Sections 13 and 14 of the Arms Act, 1959 or under Rule 51 of the Arms Rules, 1962. However, under the provisions of Arms Rules, 2016 there is specific time frame prescribed for exercise of discretion by the licensing authority under the Arms Act. Rule 14



of Rules, 2016 stipulates 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 on the application of the petitioner till date, which, prima facie, suggests that either licensing authority is ignorant of the statutory provision or is least bothered to abide by the same.

It is well settled that the statute prescribes a thing to be done in a particular manner then it has to be done in that particular manner. A useful reference in this regard may have to in the case of Selvi J. Jayalalithaa & Ors Vs. State of Karnataka & Ors, reported in 2014 (1) PLJR (SC) 531. The relevant portion of paragraph 29 reads as follows:-

“ We find force in the submissions advanced by the learned Attorney General that this Court



generally should not pass any order in exercise of its extraordinary power under Article 142 of such order violates any statutory provisions. We do not intend to say that it would be illegal to extend the term of the Special Judge, but that it is a matter within the jurisdiction of the State in accordance with the relevant law.

There is yet an uncontroverted legal principle that when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. In other words, where a statute requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim “*Expressio unius est exclusio alterius*”, meaning thereby that if a statute provides for a thing to be done in a particular way, then it has to be done in that manner and in no other manner and



following any other course is not permissible....”

In view of the discussions made above, it is expected from Respondent No. 3, the District Magistrate, Saran at Chpara 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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