

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6818 of 2018

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Manish Sharma son of Late Ram Chandra Sharma resident of Village :
Maraiya, P.S. : Parbatta, Sub Division : Gogri, District : Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The Circle Officer, Parbatta, District : Khagaria.
5. The Officer-in-Charge, Parbatta Police Station, District : Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Sager Sharma, Advocate
Mr. Nagendra Kumar, Advocate
For the Respondent/s : Mr. Partha Sarth, GA-4
Mr. Ustav Kumar, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 15-05-2018

Heard Mr. Nagendra Kumar, learned counsel

for the petitioner and Mr. Ustav Kumar, learned AC to GA-4.

The present Writ application has been filed for a direction to Respondent no. 2, District Magistrate, Khagaria to pass an order on the application of the petitioner submitted on 27.01.2014 for grant of licence for rifle.

It is submitted by learned counsel for the petitioner that the petitioner is a businessman and for the safety and security of his life and property, he submitted an application on 27.01.2014 before the Licensing Authority, i.e., District Magistrate, Khagaria on 27.01.2014 with required fee.



Subsequently the petitioner came to know that the Superintendent of Police, Khagaria vide Memo No. 07 dated 19.03.2015 transmitted the report recommending for the grant of Arms licence, but no decision has been taken by the Licensing Authority in spite of the representation dated 09.03.2017, as contained in Annexure-3, submitted by the petitioner. The petitioner is not having any criminal antecedent, statement to that effect has been made in paragraph 11 of the writ application. It is further submitted that the other persons who applied along with the petitioner have been granted licence. Hence, the present Writ application.

Learned AC to GA-4, however, submits that, at present, he is not having any instruction, but if no decision has been taken on behalf of the application of the petitioner, the same will be taken within a time frame.

Having heard the learned counsel for the parties, it appears that prior to the coming into force of Arms Rule, 2016, pendency of the application for issuance of arms licence, for indefinite period, could be understood, as there was no time frame fixed for taking decision on such application under Sections 13 and 14 of Arms Act, 1959 or under Rule 51 of Arms Rule, 1962. However, Ministry of Home, Govt. of India as well as Principal



Secretary, Home, Govt. of Bihar issued advisories for disposal of such applications and one such advisory was issued in vide memo no. 10010 dated 04 December 2014 under the signature of Principal Secretary Home Govt. of Bihar directing all the District magistrates and S.Ps that as soon as the application is submitted it has to be transmitted to the concerned Superintendent of Police and Superintendent of Police has to submit the police report within 45 days of receipt of the application and 30 days thereafter, the Licensing Authority has to take a final decision on the application and altogether within maximum period of 75 days the application for grant of licence has to be disposed of, but to the effect that despite such advisory, the licensing authority used to keep the same pending for indefinite period. Consequently, it appears that the legislature in its wisdom under the Arms Rule, 2016 mandated the provision for submission of the police report within 30 days under Rule 14 and on receipt of the police report the Licensing Authority will take a final decision within 60 days thereafter. But, it appears that even the new Rule is having no impact on the Licensing Authority. In the present case, it appears that the police report was submitted as far back in year 2014, but there is nothing on record to suggest that any final decision has been taken by the Licensing Authority, i.e., District Magistrate, Khagaria on the



application of the petitioner.

In view of the discussions made above, it is expected from Respondent no. 2, District Magistrate, Khagaria, Licensing Authority under the Arms Act to take a final decision and dispose of the application of the petitioner with reasoned order within a period of six weeks from the date of receipt/production of a copy of this order.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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