

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14314 of 2018

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Lokesh Ranjan S/o Dr. Rajiwa Ranjan Singh R/o Village - Dharupur, P.S. -
Bikramganj, District :- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Sasaram, Rohtas.
3. The Superintendent of Police, Sasaram, Rohtas.
4. Sub-Divisional Officer, Sasaram, Rohtas.
5. Officer-in-Charge, Bikramganj Thana, Distt :- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishal Saurabh, Advocate

For the Respondent/s : Mr. Nadim Seraj, GP-5

Mr. Shailesh Kumar, AC to GP-5

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

02/ 06-08-2018

Heard Mr. Vishal Saurabh, learned counsel for
the petitioner and Mr. Shailesh Kumar, learned AC to GP-5.

The present writ application has been filed for
a direction the respondent authorities, particularly, the District
Magistrate, Rohtas at Sasaram –cum- licensing authority under the
Arms Act to grant arms licence for DBBL gun under the heirloom
policy to the petitioner, as the grandfather of the petitioner



namely, Rajdeo Singh held a valid licence for DBBL Gun No. 22647 vide Arms Licence No. 456/21 of 1966.

It is submitted by learned counsel for the petitioner that the grandfather of the petitioner namely, Rajdeo Singh had a valid licence for DBBL gun issued in 1966, but when he become very old he expressed his desire to transfer the said gun in favour of the petitioner and consequently the petitioner applied for grant of licence for DBBL gun on 28.11.2014. The petitioner has come to know that Respondent No. 5, Station House Officer, Bikramganj P.S. transmitted the police report to Sub-divisional Police Officer, Sasaram, Respondent No. 4 vide DR No. 11 on 23.02.2016 and thereafter Respondent No. 4 forwarded the same to Respondent No. 2, District Magistrate, Rohtas, but no decision has been taken as yet. However, it is stated that subsequent to the application made by the petitioner the grandfather of the petitioner namely, Rajdeo Singh died on 26.12.2014 and after his death the DBBL gun was deposited before Arms dealer namely, Hindustan Arms, Sasaram and receipt was obtained. The same has been brought on record as Annexure-2. But for reasons best known, decision has not been taken on the application for grant of arms licence of the petitioner in spite of representation dated 28.06.2018 submitted by the petitioner, as contained in Annexure-3. Hence,



the present writ application.

Learned AC to GP-5 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 if no decision has been taken till date, it will be taken by the licensing authority within a reasonable time frame.

Acquisition and possession of fire-arms being a statutory right, the applicant has to follow procedure prescribed under the Arms Act and Rules. Similarly, the Arms Act and the Rules equally apply to the licensing authority also while they exercise their jurisdiction under the Arms Act. Though, the grant of licence to heirs or the nominee of the licensee is more in nature of transfer but nobody can acquire or possess fire-arms without a valid licence. Rule 14 of Arms Rules, 2016 stipulates that the Officer-in-Charge of the nearest police station will submit the report within thirty days of receipt of the application, whereas Rule 13 of Arms Rules, 2016 stipulates that the licensing authority will take a final decision by a speaking and reasoned order either granting or refusing to grant the arms licence within sixty days of the receipt of police report.

In the present case the application was made on 28.11.2014 and about three and half years have lapsed but there



is nothing on record to suggest the reason for such a delay, which suggests that either the statutory provisions are meaningless to the licensing authority, or he does not care about it.

Though, in Arms Rules, 1962 there was no provision for giving preference to grant licence to the heirs or nominee of the licensee. However, through executive instructions such instructions were issued from time to time by the Ministry of Home, Govt. of India as well as by Department of Home, Govt. of Bihar, but it appears that it did not bear any impact on the licensing authority, as a result, under Rule 25 of Arms Rules, 2016 a specific provision has been incorporated which mandates that the licensing authority can consider the grant of licence either after the death of the licensee or during the life time of the licensee to his legal heirs or nominee, if the licensee or holder of the licence attains 70 years of age or has been holding the arms licence for 25 years. The explanation part of Rule 25 details out the person who can claim to be a legal heir and the grandchild are one of them. The petitioner claims to be grandchild of the licensee.

In the circumstances, it is expected from Respondent No. 2, the District Magistrate, Rohtas at Sasaram – cum- licensing authority to take a final decision within a period of six weeks from the date of receipt/production of a copy of this



order keeping in view of the provisions as laid down under Rules 13, 14 and 25 of Arms Rules, 2016.

With the above observation and direction,
this writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

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