

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17748 of 2018

Neelam Chandan, S/o Prem Kumar, Resident of Sadikpur, P.S.- Alamganj,
P.O.- Gulzarbagh, Town & District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Patna.
3. Additional District Magistrate (Arms), Patna.
4. District Arms Magistrate, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar
For the Respondent/s : Mr. Parth Sarthi - Ga-4

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 21-12-2018

Heard Mr. B.N. Pandey, learned counsel for the
petitioner and Mr. Kumar Vikram, learned AC to GA-4.

The present writ application has been filed for a
direction to the Respondent No. 2, the District Magistrate,
Patna to take a final decision on the application of the
petitioner for issuance of a composite licence, since the
petitioner is a licence holder of two fire arms i.e. N.P. Bore
Revolver/Pistol having Licence No. 687/2013 and N.P. Bore
Rifle having Licence No. 708/2013.

It is submitted by learned counsel for the
petitioner that the petitioner is a licensee of N.P. Bore
Revolver/Pistol and N.P. Bore Rifle since 2013. After
coming into force of the Arms Rules, 2016 (hereinafter



referred to as Rules, 2016) wherein under Rule 15, there is a provision of consolidation of the licences, the petitioner submitted an application for issuance of composite licence. Consequently, the particulars of the petitioner's licences were entered in the local software as well as in the NDAL system and thereafter Unique Identification Number (UIN) 051880004344482015 was generated. It is further submitted that both the licences have been renewed from time to time and the licences are valid upto 2018. Hence, the petitioner submitted an application on 31.10.2017 for issuance of a composite licence for both the licences as incorporated under Rule 15(4) of the Rules, 2016 but till date no order has been passed in this regard nor any communication has been made to the petitioner.

Mr. Kumar Vikram, learned AC to GA-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 yet been taken till date, it will be taken by the licensing authority within a reasonable time frame.

The Rules, 2016 envisages various provisions to check arbitrary discretion of the licensing authority as well as



to check the misuse of arms and ammunition and the terms of licences by the licensee. In order to enforce such check, under Rule 15 of Rules, 2016, incorporation has been made for maintenance of records in electronic format and consolidation of arms licence. Rule 15 directs for maintenance of records in electronic format and consolidation of the licences.

Sub Rule (1) to (3) of Rule 15 of Rules, 2016 prescribes maintenance of records in electronic format and consolidation of the licences. Sub Rule (1) of Rule 15 mandates that every licensing authority or the renewing authority as specified in Schedule II, while granting a licence or renewing a licence, thereof, shall enter the data of the record locally in an electronic format specified by the Central Government. Sub-Rule (2) of Rule 15 further mandates the licensing authority and the renewing authority to enter such data in the NDAL system, which shall generate a Unique Identification Number (UIN) and from the 1st day of April, 2019, any arms licence without UIN was directed to be treated as invalid. Sub-Rule (3) of Rule 15 stipulates that the UIN so generated will be unique for every licensee. Sub Rule (4) to (6) of Rule 15 stipulates the provision for



consolidation of licences. Rule 15(4) provides for consolidation of licence allowing the licensee holding multiple licences in Form III to make an application before the concerned licensing authority, to consolidate the licence by making an application on or before the 1st day of April, 2019 for grant of single licence in respect of all the arms under his UIN.

It is made clear that the cut off date i.e. 1st day of April, 2017 as incorporated under Rules 15(2) and 15(4) were substituted as 1st of April, 2018 by GSR (E) dated 28.11.2017 w.e.f. 28.11.2017 and the said cut off date has now been substituted as 1st April, 2019 vide Ministry of Home Affairs, Notification No. G.S.R. 644(E) dated July 12, 2018 published in Gazettee of India on 13th July, 2018.

Though the present case is governed by Rules, 2016 but it is relevant to refer to Rule 54 of Rules, 1962 as it contains the provision for renewal of arms licence. Sub-rule (5) and (6) were inserted by the notification being GSR 585 E dated 24th July, 2012 w.e.f. 25.9.2012, which makes it mandatory for the licensing authority for grant of licence and the renewing authority at the Centre or at the State level, while granting a licence or renewing a licence,



as the case may be, to enter the data of the record in an electronic format, duly approved by the Central Government or the State Government, as the case may be. The licensing authority and the renewing authority have further been mandated to enter such data as are required in an electronic automated system as developed by the National Informatic Centre for this purpose and the aforesaid electronic automated system shall generate a unique identification number without which no arms licence shall be considered as valid with effect from 1st October, 2015. Sub Rules (5) and (6) of Rule 54 of Rules, 1962 reads as follows:

“5. The licensing authority and the renewing authority at the Centre or at the State level, while granting a licence or renewing a licence, as the case may be, shall enter the data of the record in an electronic format duly approved by the Central Government or the State Government, as the case may be.

(6) The licensing authority and the renewing authority shall also enter such data as are required in an electronic automated system as developed by the National Informatic Centre for this purpose and the aforesaid electronic automated system shall generate a unique number without which no arms licence



shall be considered as valid with effect from 1st October, 2015.”

Sub Rule (4) to (6) of Rule 15 of Arms Rules 2016 prescribes the provision of consolidation of licence, which read as follows:

“15. Maintenance of records in electronic format and consolidation of licences.—

(1) ...

(2) ...

(3) ...

(4) Any existing licensee holding multiple licences in Form III shall on or before the 1st day of April, 2017, make an application for grant of a single licence in respect of all the firearms held by him under his UIN, to the concerned licensing authority:

Provided that where the applicant applying a licence for restricted category of arms or ammunition specified in Schedule I is also a holder of a licence for permissible category of arms or ammunition specified in the said Schedule; or where the applicant, applying for permissible category of arms or ammunition is also a holder of a licence for restricted category of arms or ammunition specified in the said Schedule, the licensing authority concerned shall issue a new licence for such restricted or



permissible category of arms or ammunition, as may be applicable, under the existing UIN of the licensee:

Provided further that separate licence books shall be generated in case of each licence in Form II, Form III and Form IV and in case of a licence in Form III, separately for restricted and permissible categories of arms and ammunition specified in Schedule I, with an overall ceiling of three firearms under a single UIN.

(5) The licensing authority on receipt of an application from a multiple licence holder under sub-rule (4) shall cancel the existing multiple licences of the applicant and issue in lieu thereof, a new licence endorsing therein, all the existing firearms of the said licensee.

(6) The period of validity of the new licence so issued by the licensing authority under sub-rule (5) shall be the farthest period as mentioned in any of the cancelled licences and the area validity endorsed on the new licence shall be the more extensive area in any of the cancelled licences.”

Rule 15(4) prescribes the consolidation of existing licence of the licensee, the proviso thereof stipulates that if the applicant applying for restricted category of arms or ammunition as specified in Schedule I is also a



holder of licence for permissible category of arms or ammunition specified in the said Schedule, or where the applicant applying for permissible category of arms and ammunition is also a holder of a licence for restricted category of arms or ammunition specified in the said Schedule, the concerned licensing authority shall issue a new licence for such restricted or permissible category of arms or ammunition as may be applicable, under the existing UIN of the licensee subject to the condition that separate licence book shall be generated in case of each licence in Form II, III and IV . However, in case of licence in Form III, a separate licence has to be issued for restricted and permissible categories of arms and ammunition specified in Schedule I, with an overall limit of three fire arms. Rule 15(5) mandates that the licensing authority, upon receipt of an application from a multiple licence holder under sub-rule (4) shall cancel the existing multiple licences of the applicant and issue in lieu thereof, a new licence endorsing therein, all the existing fire arms of the licensee. Rule 15(6) of Rules, 2016 prescribes the validity of period and area of such composite licence. It suggests that the period of validity will be the farthest period as mentioned in any of the cancelled licences



and the area of validity of the new licence will be the most extensive area stipulated in any of the cancelled licences.

Rule 16 of Rules, 2016 casts duty on licensing authority under NDAL. Rule 16(1) mandates that while the licensing authority granting or renewing a licence or at the time of providing any allied service to any licensee, shall ensure that the data of the transaction approved by him is simultaneously updated in the electronic format locally and on the NDAL system. The proviso to Rule 16 stipulates that for failure on the part of the licensing authority to update such data in the electronic format, the licensee shall not be held accountable. Rule 16(2) of Rules, 2016 mandates the licensing authority to ensure compliance of delivery of different services specified in column (2) of Schedule V, within the time specified in column (4) of the said Schedule.

Schedule V of Rules, 2016 has been framed in exercise of power under Rules, 2016 which prescribes the time limit for various services to be rendered by the licensing authority under Schedule II of the Rules. Column (1) of Schedule V stipulates 16 kinds of services. However Sl. No. 17 covers all other services not specified within Sl. Nos. 1 to 16 of Column (1), therefore, altogether



17 services have been prescribed in Schedule V. Column (2) of Schedule V prescribes nature of the services, Column (3) prescribes the specific Rule to which that service relates to and Column (4) stipulates the time for rendering those services. Sl. No. 7 of Column (1) of Schedule V describes the nature of service as addition and deletion of weapon under Rule 18 and prescribes the licensing authority to do the same within seven days of receipt of the application. The case of the petitioner is also for addition of licence. Though Sl. Nos. 1 to 5 of Column (1) of Schedule V do not describe the services with regard to consolidation of licences under Sub-sections (4) to (6) of Rule 15, hence it gets covered under Sl. 17 of Column (1), which covers all the services which are not specified under Sl. Nos. 1 to 16 of Column (1) and that mandates the rendering of services within seven days of receipt of the application. This Court is dismayed to find that the above mandate of law has been callously violated.

It is well a settled legal principle that when a statute provides for a particular procedure, for doing a thing in a particular manner, then it has to be done in that particular manner and not in any other manner at all. The aforesaid legal proposition is based on the legal maxim



“Expressio unius est exclusio alterius”

In this regard, a useful reference may be made to the case of Selvi J. Jayalalithaa Vs. State of Karnataka & Ors., (2014) 1 PLJR (SC) 531. Paragraph no. 29 of the judgment reads as :

“29. 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 the Constitution to do complete justice if 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, are impliedly and necessarily forbidden. The aforesaid settle 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 in not



permissible.

In State of Uttar Pradesh vs. Singhara Singh & Ors., AIR 1964 SC 358, this court held as under:-

“8. The rule adopted in Taylor vs. Taylor, (1876) 1 Ch D 426 is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted.” [See also: Accountant General, State of Madhya Pradesh vs. S.K. Dubey & Anr.*, (2012)4 SCC 578]”

There is nothing on record to suggest that till date any decision has been taken by the respondent authorities on the application of the petitioner for consolidation of his licences.

In view of the discussion made above, it is expected from Respondent No.2, District Magistrate, Patna to take final decision on the application of the petitioner within a period of seven days from the date of receipt/production of a copy of this order.

With the above observation and direction, this writ



application is allowed.

(Dinesh Kumar Singh, J)

anil/-

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CAV DATE	
Uploading Date	
Transmission Date	

