

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18423 of 2018

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Imran Khan, S/o- Usman Khan, Resident of Village- Nahauna, P.S. Sasaram
(M), District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Rohtas, District- Rohtas.
2. The District Arms Magistrate, Rohtas, District- Rohtas.
3. The Superintendent of Police, Rohtas, District- Rohtas.
4. The Officer-In- Charge, Sasaram (M), Police Station, District- Rohtas. null
null

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Tripathy
For the Respondent/s : AC to SC 8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 05-10-2018

Heard learned counsels for the parties.

The present writ application has been filed for a direction to the Respondent authorities, particularly, Respondent No. 1, the District Magistrate, Rohtas to take a final decision on the application of the petitioner submitted for grant of licence for N.P. Bore rifle.

It is submitted by learned counsel for the petitioner that petitioner is an agriculturist and the father of the petitioner, namely, late Usman Khan was granted licence vide Licence No. 88AB0723/1979 for N.P. Bore rifle. From 1979 to 2016 the licence was renewed and there has never been any misuse of the conditions of the licence. Due to old age, father of the petitioner



intended to transfer the rifle in favour of the petitioner. Consequently, the petitioner submitted an application for grant of licence before the Respondent No.1, District Magistrate, Rohtas on 16.9.2017. It is learnt by the petitioner that subsequently the local police and the SDO made recommendation in favour of the petitioner. The father of the petitioner also submitted an affidavit expressing his desire for transfer of the rifle vide Affidavit dated 21.8.2014, as contained in Annexure 2. It is further submitted that petitioner is a resident of Maoist and Naxal infested area. The father of the petitioner died on 8.6.2018 whereafter the the petitioner deposited the rifle before M/s Hindustan Arms, Sasaram on 1.8.2018, but despite the fact that the petitioner filed several representations, the application of the petitioner has not been disposed of. Hence, the present writ application.

AC to SC 8 submits that at present he is not having any instruction whether the application of the petitioner has been disposed of or not, but if decision has not yet been taken on the application of the petitioner, the same will be taken within a reasonable time frame.

Having heard learned counsels for the parties, since the petitioner submitted his application for grant of licence for



NP Bore rifle on 16.9.2017 and Arms Rules, 2016 (hereinafter referred to as 'Rules, 2016') came into effect from 15.07.2016, the case of the petitioner was to be covered by Rules, 2016.

True it is that there is no time limit prescribed either under Section 13 of the Arms Act, 1959 or under Rule 51 of the Arms Rules, 1962 for taking decision on the application for grant of arms licence, but in Rules, 2016 the discretion of the licencing authority has been restricted by introducing a time frame for exercise of the discretion. Rule 14 of the Arms Rules prescribes that licensing authority on receipt of an application for grant of licence under Section 13(1) or on every renewal of the licence granted under Section 15 of Arms Act, 1959 shall call for a report from the officer in charge of the nearest police station who shall submit the report within thirty days of the receipt of such application by him whereas Rule 13 mandates the licensing authority to take final decision by reasoned speaking order in writing on considering such application for grant of licence and on being satisfied that such applicant has fulfilled the eligibility condition for such grant either by way of granting licence or refuse to grant licence within sixty days. Moreover Sub Rule (3) of Rule 14 mandates that the Licensing Authority may in the case of non-receipt of the police report



within a period prescribed under Sub-Rule (1) and Sub-Rule (2) of Rule 14, make an order in writing on such application without further waiting for the report.

The petitioner submitted an application in view of the provisions under Rule 25 in Form A-1 along with an affidavit, indemnity bond, No Objection of all the legal heirs and the requisite fee, as per Rules, 2016 on 13.08.2016/06.10.2017 before the licensing authority, Respondent No. 3, the District Magistrate, Patna, the details of which has been brought on record as Annexure-2 series, but since then no intimation has been received by the petitioner in spite of the representation made, as contained in Annexure-2 series. Hence the present writ application.

Rule 25 of Rules, 2016 stipulates to give preference to the heirs and nominee of the licensee who has either attained the age of 70 years or has been a licensee for 25 years, whichever is earlier. Proviso to Rule 25 mandates the licencing authority to grant licence subject to the provisions under Rule 12 which prescribes certain preferences to be given to such applicant. Rule 12 prescribes certain conditions under which the preference has to be given to such applicants, and one such condition being that the applicant is a resident of a geographical



area where militants, terrorists or extremists are very active. The proviso to Rule 25 further stipulates that if the legal heirs of the licensee fulfil the conditions prescribed under the statute and there is no adverse remark by the police, the licence shall be granted. However, sub-rule (2) of Rule 25 of Rules, 2016 prescribes that where there is more than one heir, No Objection from other heirs have to be taken in favour of the applicant. The insertion of Rule 25 was intended with a purpose to expedite the disposal of application of such applicant who are the heirs of the licensee. Rule 25 of Rules, 2016, reads as follows:

“25. Grant of licences to legal heirs.— (1) The licensing authority may grant a licence —

(a) after the death of the licensee, to his legal heir;
or

(b) in any other case, on the licensee attaining the age of seventy years or on holding the firearm for twentyfive years, whichever is earlier, to any legal heir nominated by him:

Provided that notwithstanding the provisions contained in rule 12 of these rules, the licensing authority may grant a licence to such legal heir if the eligibility conditions under the Act and these rules are fulfilled by the said legal heir and there are



no adverse remarks in the police report.

(2) Where a licensee leaves behind more than one legal heir and the legal heirs decide amongst themselves to retain the arm or arms of the deceased, one of the legal heirs nominated by all other legal heirs may apply for a licence under sub-rule (1) along with the following documents, namely:-

(i) a declaration of no-objection from the remaining legal heirs;

(ii) an indemnity bond executed by the applicant giving full details of the licence and the arm or arms endorsed thereupon; and

(iii) a copy of the death certificate of the deceased licensee.

(3) Where the legal heirs decide to dispose of the arm or arms endorsed on the licence of the deceased licensee, they may apply to the licensing authority for grant of a limited period permission to sell the arm or arms, within the time allowed by such authority, to any licensed dealer or to any other person entitled to possess an arm under these rules.

Explanation. — For the purposes of this rule, ‘legal heir’ includes husband, wife, son, daughter, son-in-law, daughter-in-law, brother, sister and grandchildren of the licensee or the deceased licensee.”



In the present case, this Court finds that neither the statutory time frame fixed under Rule 13 of Rule, 2016 has been followed or the purpose of insertion of Rule 25 of the Rules, 2016 for expeditious disposal of the applications of the heirs of licensee has been honoured.

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

In view of the discussions made above, it is expected from the Respondent No. 1, the District Magistrate, Rohtas, the licencing authority under the Arms Act to take a final decision on the application of the petitioner keeping in view the provisions under Rule 25 of Rules, 2016 within a period of four weeks from the date of receipt/production of a copy of this order.

With the aforesaid observation/direction, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

