

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2900 of 2018

Shakeel Ahmad, Son of late Shabbir Ahmad, Resident of Village & P.O.-
Sabeya, P.S. Ramnagar, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The District Magistrate, West Champaran at Bettiah.
4. The Arms Magistrate, West Champaran at Bettiah.
5. The Sub-Divisional Magistrate, Bagha, District- West Champaran.
6. The Superintendent of Police, Bagha, District- West Champaran.
7. The Sub-Divisional Police Officer, Ramnagar, District- West Champaran.
8. The Station House Officer, Ramnagar Police Station, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anis Akhtar

For the Respondent/s : Mr. Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 28-08-2018

Heard learned counsels for the parties.

In view of the nature of order this Court intends to pass,
there is no need to adjourn the matter for filing counter affidavit.

The present writ application has been filed for direction
to Respondent No. 3, the District Magistrate, West Champaran at
Bettiah for taking a decision on the application of the petitioner for
grant of arms licence for N.P. bore rifle submitted in 2008 and also
the application of the petitioner filed for grant of licence for pistol
and 12 bore gun, submitted in August 2016.



It is submitted by Mr. Anish Akhtar, learned counsel for the petitioner that the petitioner, being an agriculturist, is having threat to his life and property and therefore he submitted an application for grant of licence for N.P. bore rifle in the year 2008 before the Licensing Authority Respondent No. 3, the District Magistrate, West Champaran at Bettiah. Subsequently, the police recommended the case of the petitioner for such grant of licence and the petitioner was called by the Licensing Authority for personal interview on 02.11.2009 at 11.00 P.M. It is further submitted that the petitioner was elected as Mukhiya of Gram Panchayat Raj, Sabeya in 2011 and consecutively again in 2016 as Mukhiya of the said Gram Panchayat and hence the petitioner apprehended greater threat perception to his life and property. The petitioner is not having any criminal antecedent but in spite of that, for no justifiable reason, decision has not been taken on the application of the petitioner. Ultimately, the petitioner applied for licence for pistol and 12 Bore gun in August 2016, but the said application has also been kept pending. Hence the present writ application.

Mr. Manish Kumar, learned GP 4 submits that he is not having any instruction whether the applications of the petitioner have been disposed of or not, but he further submits that if



decision has not yet been taken on the applications of the petitioner by the Licensing Authority, the same will be taken within a reasonable time frame.

This Court is dismayed to find that discretionary jurisdiction under Article 226 is being invoked for reminding the statutory authorities to discharge their statutory obligation. Though either under Section 13 of the Arms Act, 1959, or under Rule 51 of the Arms Rule, 1962, there was absence of any time frame for taking decision on the application for grant of arms licence, by the Licensing Authority, but proviso to Sub-Section 2-A of Section 13 of the Arms Act mandates that the Licensing Authority may, if it deems fit, make such order, after the expiry of the prescribed time, if the police report is not submitted within a prescribed time, meaning thereby, the Licensing Authority cannot keep the application pending for grant of licence for an indefinite period. Appreciating the laid back and callous approach of the Licensing Authorities in disposal of application for grant of arms licence, a Division Bench of this Court in the case of Dwivedy Surendra, Advocate Vs. The State of Bihar and Ors., reported in 2007(3) PLJR 76, directed the Home Secretary, Government of Bihar to get all the pending applications for grant of arms licence disposed of within two months and other applications which were awaiting



police verification report, within a period of four months, but it appears that the above direction of the Division Bench, stands frustrated, since the same appears to have fallen on deaf ears. Accordingly, in the Arms Rules, 2016 (hereinafter referred to as 'the Rules'), the specific time frame has been incorporated in Rules 13 and 14 of the Rules. Rule 14 of the Rules mandates the submission of police report by the SHO of the nearest police station within thirty days of receipt of the application and after receipt of the police report, the Licensing Authority is required to pass a reasoned and speaking order in writing either for granting or refusing to grant the arms licence.

This Court is dismayed to find that in spite of the specific statutory mandate, the Licensing Authorities are not disposing of the applications of the petitioner within the prescribed time frame. The petitioner though applied for grant of licence for three arms, which is permissible under Section 3(2) of the Arms Act, 1959, however, whether the petitioner can be granted licence for three arms or not, is absolutely within the domain of the Licensing Authority. There is nothing on record to suggest that the application of the petitioner has been disposed of.



In view of the discussions made above it is expected from the Respondent No. 3, the District Magistrate, West Champaran at Bettiah to take a decision on the application of the petitioner within a period of six weeks of receipt/production of the copy of the order.

Accordingly, this writ application is disposed of with aforesaid observation and direction.

(Dinesh Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

