

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1697 of 2018

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Md. Mehadi Ali Son of Mohammad Islam Resident of Mohalla Madar
Darwaza, P.S. Sasaram Town, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Collector, Rohtas, Sasaram.
4. The S.P. Rohtas , Sasaram.
5. The S.D.O. Sasaram, Rohtas.
6. The Arms Magistrate, Rohtas, Sasaram.
7. The S.D.P.O. Sasaram, Rohtas.
8. The A.S.P. Rohtas, Sasarma.
9. The Officer-in-charge, Sasaram town Police Station- Sasaram, Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate
For the Respondent/s : Mr. Partha Sarthi-GA4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 12-02-2018

Heard Mr. Ashok Kumar Mishra, learned

counsel for the petitioner and Mr. Partha Sarthi, learned GA-4.

The present Writ application has been filed for a direction to the respondent authorities particularly the Licensing Authority, i.e. respondent no.3, the Collector, Rohtas, Sasaram to dispose of the application of the petitioner, submitted for grant of N.P. Bore Rifle licence which has been pending since 2010.

It is submitted by learned counsel for the petitioner that the petitioner submitted application for grant of



licence of N.P. Bore Rifle before the Collector, Rohtas, Sasaram on 06.03.2010 and the application of the petitioner was transmitted by respondent no. 6, the District Arms Magistrate vide Memo No. 1202 dated 24.04.2010 to respondent no. 5, Sub-divisional Officer, Rohtas, Sasaram for verification, as contained in Annexure-1. Subsequently, the necessary instruction was given to the Officer-in-charge of Sasaram Town P.S. for verification, but since then more than seven years have passed, and the application of the petitioner has not been disposed of. Though, the petitioner submitted a reminder application before District Arms Magistrate, Rohtas, Sasaram as well as before respondent no. 2, Principal Secretary, Home, Government of Bihar, Patna, as contained in Annexure-4 and 5 respectively, but no action has been taken.

It is further submitted by learned counsel for the petitioner that the petitioner is having a clean antecedent and this Court in the case of Dwivedy Surendra Vs. The State of Bihar and another (CWJC No. 13496 of 2004) reported in 2007(3) PLJR 76, directed for disposal of the all pending Arms applications which was counted at the relevant time to be 35108 in the Bihar State, within a period of two months wherein the police verification report has already been received by the Licensing Authority and other applications wherein the police verification is



pending, the disposal of such application for Arms licence within a period of four months. Consequently, the Department of Home, Govt. of Bihar issued a directive/advisory to all the District Magistrates and S.Ps. to comply the order passed in the aforesaid writ application, but in spite of that the application for grant of Arms licence is pending since last more than seven years, hence, this writ applicaton.

Mr. Partha Sarthi, learned GA-4 submits that at present, he is not having any instruction whether the application of the petitioner is pending or not, but if the same is pending, then District Magistrate will dispose of the application of the petitioner within a certain time frame.

Considering the rival submissions of the parties, it is true that there was no time limit fixed for disposal of the application for grant of licence under Arms Rule 1962, but it appears that in spite of the direction of this Court, as quoted above and consequently, advisory/directive issued by the Department of Home to all the District Magistrates, who still kept pending the applications for grant of Arms licence. Moreover, Rule 13 of Arms Rule 13 prescribes the time limit for grant of licence, which reads as follows:-

“The time limit for grant of licence. – The



licensing authority, after consideration the application and on being satisfied that the applicant has fulfilled the eligibility conditions, shall grant or refuse to grant a licence for permissible category of arms or ammunition satisfied in category III of Schedule I, to any person by recording in writing the reasons for such grant or refusal by passing a speaking order, within a period of sixty days of the receipt of the police report.

Provided that the licensing authority was specify, the type of arms and ammunition to be procured by the applicant after assessing the reason and the need for possession of the type of arms and ammunition applied for by the applicant, considering the lethality or fire-power.”

The above Rule suggests that the licensing authority will either grant or refuse to grant a license by a speaking and reasoned order within a period of sixty days of the receipt of the police report. The proviso of Section 13(2-A) of the



Arms Rules, 2016 further prescribes that if the Officer-in-charge of the nearest police station does not send report on the application within the prescribed period, the licensing authority may, if it deems fit, make such order, after expiry of the prescribed time, without further waiting for that report. But there is nothing on record to suggest that the provisions of the Arms Act and the Arms Rule are being followed by the licensing authority in the State of Bihar.

In view of the discussions made above, respondent no. 3, the Collector, Rohtas, Sasaram, respondent no. 3 is directed to dispose of the application of the petitioner for grant of Arms licence 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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