

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9993 of 2017

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Parsuram Pandey, Son of Sri Satya Narayan Pandey, Resident of Village-
Kishanpura, Police Station- Koilwar, District- Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate-cum- Collector, Patna.
4. The District Magistrate, Bhojpur Ara.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra
For the Respondent/s : Mr. Prabhat Kumar Verma- AAG3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 12-02-2018

Heard Mr. Gopal Govind Mishra, learned counsel for the
petitioner and learned AC to AAG-3 for the respondents.

Since the present writ application was registered on
17.07.2017, but till date no counter affidavit has been filed. Hence,
this Court is not inclined to adjourn the matter any further.

The present writ application has been filed for a direction to
the respondent authorities, particularly respondent no.4, the
District Magistrate, Bhojpur at Ara for disposing of the application
submitted before him on 27.05.2014, for grant of arms licence in
pursuance to a remand order dated 21.03.2013/16.04.2013, passed
by respondent no.2, the Divisional Commissioner, Patna Division,
Patna in Arms Appeal No. 114 of 2010.



This is a peculiar case wherein the petitioner has been running from pillar to post since November, 1999 for getting an arms licence for revolver/pistol. The petitioner submitted an application in the month of November, 1999 before the Arms Magistrate, Bhojpur at Ara, as contained in Annexure-1, for grant of arms licence. In spite of appropriate recommendation made by the Police Inspector and Superintendent of Police, the then District Magistrate, Bhojpur at Ara rejected the application of the petitioner, vide order dated 26.07.2003, as contained in Annexure-3, on the ground that since the petitioner is already having an arms licence for N.P. Bore rifle, hence there is no justification for seeking another arms licence. Consequently, the said order of the Collector was challenged in Arms Appeal No.55 of 2003, before the Divisional Commissioner, Patna, who, vide order dated 04.07.2006, as contained in Annexure-4, remanded back the matter to the Collector holding that the application for grant of second arms licence cannot be rejected on the ground that the petitioner is having an arms licence from before. Thereafter, the District Magistrate, Bhojpur vide order dated 12.12.2008, as contained in Annexure-5, abdicated his jurisdiction by referring the matter to the Arms Magistrate. The said order of the District Magistrate, Bhojpur, dated 12.12.2008 was challenged in C.W.J.C. No. 5755



of 2010 and this Court, vide order dated 05.04.2010, as contained in Annexure-6, deprecated the manner in which the District Magistrate abdicated his jurisdiction and as such District Magistrate-cum-Collector, Bhojpur was directed to pass appropriate orders on application for grant of licence of the petitioner within a period of one month. The relevant portion of the order reads as follows:-

“The order, as contained in Annexure-4 being order dated 12.12.2008 of the Collector-cum-District Magistrate, Bhojpur is in pursuant to the said remand order. The said order, I regret, is not the order that was required to be passed. The jurisdiction to grant arms licence and pass orders is upon the Collector-cum-District Magistrate, Bhojpur and not upon the District Arms Magistrate, Bhojpur. From the order of the Collector dated 12.12.2008, it is clear that the police recommendation has also been received.

I, therefore, direct the District Magistrate-cum-Collector, Bhojpur, instead of shirking his own responsibility, to pass appropriate orders on the application for grant of licence to the petitioner in accordance with law within a period of one month from the date of production of a copy of order of this Court.

The writ petition itself stands disposed of. “

On remand, the District Magistrate, Bhojpur, vide order dated 05.05.2010, as contained in Annexure-7, again rejected the application of the petitioner on the same ground that the petitioner is having an arms licence of N.P. Bore rifle from before, hence there is no justification for grant of another licence. However, it was casually referred that in the police report it is not mentioned



that there is any threat to the life of the petitioner. The said order dated 05.05.2010, as contained in Annexure-7, was challenged by the petitioner in Arms Appeal No. 114 of 2010, before respondent no.2, the Divisional Commissioner, Patna, who, vide order dated 21.03.2013/16.04.2013, passed in Arms Appeal No. 114 of 2010, set aside the order of the Collector dated 05.05.2010, holding that the order of the Collector does not appear to be justified in view of the fact that police report is in favour of grant of arms licence. Consequently, the petitioner submitted an application before the Collector, Bojpur, on 27.05.2014, as contained in Annexure-9, and since then it is pending.

It is further submitted that on the grounds, alien to conditions for grant of licence or refusal of the same, as incorporated under Sections 13 and 14 of the Arms Act, the Collector, either failed to exercise the jurisdiction or rejected the claim of the petitioner on frivolous and nonest grounds.

Learned AC to AAG-13 submits that at present he is not having any instruction whether the application of the petitioner has been disposed of or not.

Having heard learned counsels for the parties, from narration of the facts given above, it appears that respondent no.4, the District Magistrate, Bhojpur at Ara has either failed to exercise the



jurisdiction within the parameters of the provisions of the Arms Act or is deliberately abdicating the jurisdiction vested in him.

It is true that there was no time limit prescribed for disposal of application for grant or refusal of the licence under the Arms Act, 1959 or Arms Rule, 1962. However, a Division Bench of this Court in the case of Dwivedy Surendra (Advocate) Vs. The State of Bihar & Ors., reported in 2007(3) PLJR 76, directed that in the cases, in which, police verification reports have been received by the licensing authority, it has to be disposed of by licensing authority within a period of two months and in case of non-receipt of police verification report, the application should be disposed of within a period of four months. Consequently, the State Government issued an advisory to the licensing authority, but this Court is dismayed to find that the same is not being followed by the licensing authority, within the Act.

Considering the rival submissions and on examination, this Court finds that it is true that though there is no prescribed period under Arms Rules, 1962 with regard to disposing of the application for grant of arms licence, but it does not mean that the licensing authority can keep the application pending for an indefinite period. This Court in various judicial orders has directed for disposal of such arms application within a period of four



weeks. Moreover, Rule 13 of the Arms Rule 2016, 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 aforesaid Rule suggests that the application for grant of licence or refusal has to be disposed of by a speaking order within sixty days of the receipt of such application. The admitted position of the case in hand is that the application for grant of arms licence is pending before District Magistrate, Bhojpur since 27.05.2014, which reflects the casual state of affairs and speaks volumes about the arbitrary functioning of the authorities concerned and such arbitrariness dismays this Court.

In the circumstances, respondent no.4, the District Magistrate, Bhojpur at Ara is expected to dispose of the application of the petitioner for grant of arms licence within a period of four weeks



from the date of receipt/production of a copy of this order within the parameters of provisions of the Act.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	22/03/2018
Transmission Date	

