

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9614 of 2017

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Prem Nath Singh S/o Raghubar Dayal Singh R/o Village + P.O. - Sindhaila,
Via P.S. - Motipur, District - Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Muzaffarpur.
3. The District Arms Magistrate, Muzaffarpur.
4. The Senior Superintendent of Police Muzaffarpur.
5. The Officer-in-charge, Police Station Motipur, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manindra Kishore Singh
For the Respondent/s : Mr. Manish Kumar- GP 4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 19-02-2019

Heard learned counsels for the parties.

The present writ application has been filed for a direction to the respondent authorities, particularly, Respondent No. 2, the District Magistrate, Muzaffarpur, licensing authority under the Arms Act to dispose of the application submitted for extending the area of validity of the arms licence for revolver of the petitioner to whole of the State of Bihar from the territorial jurisdiction of the district of Muzaffarpur.

It is submitted by learned counsel for the petitioner that the petitioner was granted licence for N.P. Bore revolver in 2013, concerning which area of validity is for the district of Muzaffarpur. The petitioner submitted an application



for extension of area of validity of the licence on 2.5.2013 before the authority concerned, but even after five years having passed since, decision has not been taken on the application of the petitioner. Hence, the present writ application.

Though the writ application was registered on 12.7.2017 but till date no counter affidavit has been filed, hence, this Court is not inclined to adjourn the matter any further. However, learned counsel for the respondents State 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 been taken till date, it will be taken by the licensing authority within a reasonable time frame.

Rule 53 of Arms Rules, 1962 (hereinafter referred to as Rules, 1962) stipulated the variation of conditions of licences. Rule 53(1) reads as follows:

“53. Variation of conditions of licences.- (1)

On application from a licence-holder, a licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension, subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is sought.”



The above rule suggests that the licensing authority can extend the area of validity of the licence if he is satisfied about the need of such extension and he has the power to grant licence in relation to the area to which extension is sought.

In the present case, the application was made on 2.5.2013, hence, in exercise of the power under Rule 53 of Rules, 1962 the licensing authority ought to have decided the issue.

Since the issue of extension of area could not be decided till date and the Arms Rules, 2016 (hereinafter referred to as 'the Rules, 2016'), came into force from 15.7.2016 after its publication in the official Gazette of India, this Court is of the opinion that the licensing authority should decide the issue as per the provisions of Rules, 2016, for which the learned counsel for the petitioner also agrees and submits that if required, the petitioner will submit fresh application.

After coming into force of the Rules, 2016, Arms Rule, 1962 (hereinafter referred to as the Rules, 1962) was superseded. What was saved is the things which has been done or omitted to have been done before such supersession. Though the petitioner's application was submitted on 2.5.2013 and



hence the omission was on the part of the licensing authority, by failing to dispose of the application for extending the area of validity of licence of the petitioner, but since, in spite of the fact that the writ application was filed on 12.7.2017 and no counter affidavit has been filed, this Court thinks it proper to allow the application of petitioner to be considered in accordance with the provisions/manners stipulated in Rules, 2016.

Rule 3 of Rules, 2016 envisages the classification of arms and ammunition, of which category has been specified in Column (2) and (3) of Schedule I. Pistol and revolver comes under category 1 (c) (ii) and (iii) of Schedule I (Part A).

Under Rule 4 of Rules, 2016, Schedule II has been framed specifying the licensing authority/renewing authority, the area for which the licence can be granted. Item No. 3 of Schedule II incorporates the category of arms under Item No. 1(c) of Schedule I, which includes revolver and pistol. Column (4) of Schedule II stipulates that for whole of India the licensing authority is the Central Government i.e., the Ministry of Home Affairs whereas Column (7) of Schedule II suggests that the renewing authority will be the District Magistrate for the licence valid for whole of India or specified part thereof.



Rule 19 of Rules, 2016 prescribes for the mode of extension of area of validity of the licence which reads as follows:

“19. Extension of area validity of licence.—

(1) On receipt of an application from a licensee holding a licence in Form III, the licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is being sought.

(2) The application for extending the area validity for whole of India may be granted by the licensing authority as specified in column (5) of Schedule II, in respect of the following category of licensees, namely:-

(a) Union Ministers or Members of Parliament;

(b) Personnel of Defence Forces and Central Armed Police Forces;

(c) Officers of All-India Services;

(d) Officers in the Government or Government Sector Undertakings or Public Sector Undertakings with liability to serve anywhere in India;

(e) Dedicated sports persons and the sports persons specified in serial numbers (1) to (4) of the table in subrule (2) of rule 40.



(3) In other cases, where the licensing authority is satisfied that the nature of business or profession of the applicant requires him to carry arm or arms frequently beyond the existing jurisdiction and such a requirement may not be met by the issuance of a journey licence in Form XI of these rules, the application for extending the area validity for whole of India may be granted by the licensing authority specified in column (5) of Schedule II to the applicant.”

Rule 19(1) of Rules, 2016 suggests that on receipt of an application from a licensee holding a licence in Form III, the licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension, subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is being sought. Sub-rule (2) of Rule 19 suggests that the licensing authority as specified in column (5) of Schedule II can extend the area validity for whole of India with regard to the category of licensees, namely, Union Ministers or Members of Parliament; Personnel of Defence Forces and Central Armed Police Forces; Officers of All-India Services; Officers in the Government or Government Sector Undertakings or Public Sector Undertakings with liability to serve anywhere in India;



dedicated sports persons.

Sub-Rule (3) of Rule 19 of Rules, 2016 suggests that in other cases, where the licensing authority is satisfied that the nature of business or profession of the applicant requires him to carry arm or arms frequently beyond the existing jurisdiction and such a requirement may not be met by the issuance of a journey licence in Form XI, then the application for extending the area validity for whole of India may be granted by the licensing authority specified in column (5) of Schedule II to the applicant.

Hence, Rule 19(1) specifies that the renewing authority can extend the area of licence only to the extent of the area to which he is authorized to grant licence but Sub-Rule (2) and (3) of Rule 19 of the Rules, 2016 are the exceptions to the Rule 19(1). The licensing authority can extend the area beyond its validity to grant licence, provided the applicant falls in one of the categories mentioned in Sub-Rule (2) and (3) thereof.

Moreover, Schedule V of Rules 2016 which has been made in exercise of power under Rule 16 which casts duty upon the licensing authority to ensure the compliance of delivery of different services specified in Column (2) in



Schedule V within a time frame specified in Column (4) of the said Schedule. Schedule V prescribes time limit for various services under Rules for the licensing authority under Schedule II. Sl. No. 9 of Schedule V deals with the extension of area validity of licence under Rule 19 of Rules, 2016 and its column (4) stipulates 15 days time from the date of receipt of application by the competent authority under Schedule II for passing an order.

This Court is really dismayed to find that the application of the petitioner for such relief is pending since 2013, yet decision has not been taken by the respondent authorities.

In view of the discussions made above, the petitioner is permitted to submit an application in form prescribed under the Rules, 2016 within a period of two weeks of receipt/production of a copy of this order and it is expected from respondent no. 2, District Magistrate, Muzaffarpur to take an appropriate decision on his application of the petitioner for extension of the area of the licence of the petitioner while adhering to the provisions of Rule 19 of the Rules, 2016 within two weeks of the receipt or production of the order or from the date of submission of fresh application.



With the above observation and direction,
the present writ application is allowed.

anil/-

(Dinesh Kumar Singh, J)

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

