

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12091 of 2017

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Dilip Sharma Son of Sri Ram Sharma Resident of Vishnupur, Sharma tola,
P.S. Town, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Home Department,
Government of Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Superintendent of Police, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhanshu Kumar Lal
For the Respondent/s : Mr. Shailesh Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 19-03-2018

Heard Mr. S.K. Lal, learned counsel for the petitioner and
learned AC to GP 5 for the respondents.

Since the present writ application was registered on
21.08.2017, 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.2, the
District Magistrate, Begusarai for disposing of the application
submitted before him on 30.3.2016, for grant of arms licence for
pistol.

It is submitted by learned counsel for the petitioner that the
petitioner is a medicine trader by profession and has a medicine



shop in Begusarai town. Certain criminals were demanding extortion of Rupees Five Lacs from his brother Vishwandan Sharma but when they declined to make payment of the extortion amount, on 31.1.2016, the criminals attacked the petitioner and his brother. The petitioner, some how managed to escape, however, brother of the petitioner was killed, leading to registration of Begusarai Town P.S. Case No. 53 of 2016 for the offences punishable under sections 302 and 307/34 of the IPC. When appropriate action was not taken in the police case and the petitioner kept receiving continuous threats from the accused persons, the petitioner submitted an application before the local police dated 26.3.2016, as contained in Annexure 2 and also an informatory petition dated 28.3.2017, as contained in Annexure 4, but neither any action has been taken for the security of the petitioner by the local administration nor the petitioner's application dated 30.3.2016 submitted before the Licencing Authority for issuance of licence for pistol has been processed till date. Hence, in view of the imminent threat for life and property and inaction of the respondent authorities in the matter, this writ application has been filed.

A.C. to G.P. 5, however, submits that at present he is not having any instruction but if the application of the petitioner has not been disposed of, the same will be disposed of within a time frame.



Having heard learned counsels for the parties, this Court is really dismayed to find that even though the Arms Act, 1959 provides for issuance of arms licence to people for personal safety and security, as also the security of property, but the petitioner has been waiting for grant of licence for gun since last several years.

Section 13 of the Arms Act, 1959 stipulates the provision for grant of licence, on application being made along with the prescribed fee. On receipt of such application, the Licencing Authority has to call for a report from the Officer-in-Charge of nearest police station and the Officer-in-Charge has to transmit the report within a prescribed limit and the Licencing Authority, after considering the police report, has either to grant licence or refuse to grant licence, provided, where the officer in charge of the nearest police station does not send report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time. However, Section 13 of the Arms Act, 1959 does not prescribe any time limit for disposal of such application nor prescribes the time limit for the police to transmit the report.

Rule 51 of Arms Rules, 1962, however, deals with the application for licence but it deals with the format in which the application is made with regard to different kinds of arms for which



the licence is sought for. Section 51 also does not stipulate any time limit for disposal of application made for grant of arms licence. However, considering the apathetic attitude of Licencing Authorities in disposal of the 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., 2007(3) PLJR 76 directed the Home Secretary, Government of Bihar to write a letter to the Inspector General of Police of all the Divisions with a copy to all the Superintendents of Police directing them to issue direction to the concerned police officers to send the verification report to the District Magistrate of the district within a period of one month. In case of disobedience of the order, the court directed to take stern action against the concerned police officer. The Licencing Authorities were directed to hold court for the purpose and dispose of 5538 applications pending for grant of arms licence including the applications filed by the heirs of the deceased licensees within two months and other applications which were pending for police verification, within a period of four months.

Since the Licencing Authorities were absolutely insensitive to the order of Division Bench of this Court, hence, the Government of Bihar issued Advisory/directive dated 30.1.2005 to all the District Magistrates/all Inspector Generals/all Regional Deputy Inspector



Generals and all Superintendents of Police but it appears from analyzing the facts of the case that such advisory/directive did not bear any result nor the same is heeded to by the Licencing Authority.

The Arms Rules, 2016 now prescribes time limit for grant of licence as well as the submission of police report to licencing authority.

So far as Rule 14 of the Arms Rules, 2016 is concerned, it prescribes the time limit for police report for grant of licences, stipulating therein that the licensing authority shall call for a report from the Officer-in-Charge of the nearest police station, on receipt of an application for grant of licence under sub-section (1) of Section 13 or every subsequent renewal thereof under Section 15 and the Officer-in-Charge shall send his report in Form S-4, within a period of thirty days from the date of receipt of application by him.

Sub Rule (2) of Rule 14 of the Arms Rules, 2016 stipulates that the Central Government may extend the period of thirty days up to ninety days, by issuance of general or specific order, for certain areas or States, for any appropriate reasons.

Sub Rule (3) of Rule 14 of the Arms Rules, 2016 further stipulates that in case of non-receipt of police report within such stipulated time period of thirty days or ninety days (whenever



extended), the licensing authority may make an order in writing either for grant or for refusal of licence without waiting for such report. Rule 14 of the Arms Rules, 2016 reads as follows:

“14. Time limit for police report for grant of licences.— (1) On receipt of an application for grant of a licence under sub-section (1) of section 13 or every subsequent renewal thereof under section 15, the licensing authority shall call for a report of the officer-in-charge of the nearest police station on that application, and such officer shall send his report in Form S-4, within a period of thirty days from the date of receipt of application by him.

(2) The Central Government may by issuance of a general or special order, extend the period of thirty days as specified in sub-rule (1) up to ninety days for certain areas or States for any reason deemed appropriate by it.

(3) The licensing authority may in case of non-receipt of police report within the period of thirty days under sub-rule (1) or within the extended period under sub-rule (2), make an order in writing for grant or refusal of licence, without further waiting for the report.”

However, Rule 13 of the Arms Rules, 2016 prescribes time limit for grant of licence, which specifically suggests that the Licencing Authority, on considering 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 specified 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. Rule 13 of Arms Rules, 2016 reads as follows:

“13. 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 shall 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.”

There is nothing on record to suggest that the licencing authority has obtained the police report or not, or whether the licencing authority has made any effort to obtain police report or not, hence, it is high time that the licencing authority's slumber should break.



In the circumstances, respondent no.2, the District Magistrate, Begusarai is expected to dispose of the application of the petitioner for grant of arms licence positively within a period of six weeks from the date of receipt/production of a copy of this order within the parameters of provisions of the Act.

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

(Dinesh Kumar Singh, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

