

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20043 of 2018

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Chandan Kumar, Son of Amrika Singh, Resident of Purani Bijli Colony,
P.S. + P.O. – Jehanabad, District – Jehanabad. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar,
Secretariat, Patna, Bihar.
2. The Principal Secretary, Home, Secretariat, Patna.
3. The District Magistrate, Jehanabad.
4. The District Arms Magistrate, Jehanabad.
5. The Superintendent of Police, Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Alok Kumar Sinha, Advocate

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

Mr. Ajay Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 09-10-2018

Heard Dr. Alok Kumar Sinha, learned counsel

for the petitioner and Mr. Ajay Kumar, learned AC to GP-4.

The present writ application has been filed for a direction to Respondent No. 3, the District Magistrate, Jehanabad, licensing authority under the Arms Act to take a decision on the application of the petitioner submitted on 25.07.20015 for grant of licence for N.P. Bore Pistol/Revolver.

It is submitted by learned counsel for the petitioner that the petitioner is the proprietor of a hotel and apprehending insecurity to his life and property, he submitted an application on 25.07.2015 before the District Magistrate, Jehanabad for grant of licence for Pistol/Revolver. It is learnt by the petitioner that the police made recommendation in favour of



the petitioner. On 17.07.2017 some of the accused, attempted to kill the staff of the petitioner, leading to registration of Jehanabad P.S. Case No. 464 of 2017 dated 18.07.2017 with accusation under Sections 147, 148, 149, 307, 386, 394, 427, 452, 506, 50-4 of the Indian Penal Code and 27 of the Arms Act. Thereafter, the petitioner submitted representations but till date decision has not been taken on the application of the petitioner. Hence, the present writ application.

Mr. Ajay Kumar, learned AC to GP-4 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.

This Court is dismayed to find that the writ applications are being filed to remind the statutory authority to discharge their obligations or to exercise their discretion as per the provision stipulates in the statute. Rule 14 of Arms Rules, 2016 stipulates that on receipt of the application for grant of arms licence, the licensing authority shall call for a report from Officer-in-Charge of the nearest police station, who shall submit the report within thirty days of receipt of the application by him, whereas



Rule 13 of Rules, 2016 stipulates that the licensing authority after considering the application and on being satisfied that the applicant has fulfilled the eligibility condition shall take a final decision by a speaking and reasoned order in writing either granting or refusing to grant the arms licence within sixty days of the receipt of police report.

Sub-Rule 3 of Rule 12 of Arms Rules, 2016 mandates for grant of licence for permissible category of arms and ammunition specified in category III in Schedule I, the licensing authority, based on the police report may consider the application of such person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and property.

The application for grant of such licence was submitted more than three years ago and there is nothing on record to suggest that any order has been passed by the licensing authority on the application of the petitioner till date, which, prima facie, suggests that either licensing authority is ignorant of the statutory provision or is not bother about it.

It is well settled that the statute prescribes a thing to be done in a particular manner then it has to be done in that particular manner. A useful reference in this regard may have



to in the case of Selvi J. Jayalalithaa & Ors Vs. State of Karnataka & Ors, reported in 2014 (1) PLJR (SC) 531. The relevant portion of paragraph 29 reads as follows:-

“ We find force in the submissions advanced by the learned Attorney General that this Court generally should not pass any order in exercise of its extraordinary power under Article 142 of such order violates any statutory provisions. We do not intend to say that it would be illegal to extend the term of the Special Judge, but that it is a matter within the jurisdiction of the State in accordance with the relevant law.

There is yet an uncontroverted legal principle that when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention stature requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim



“Expressio unius est exclusio alterius”, meaning thereby that if a statute provides for a thing to be done in a particular way, then it has to be done in that manner and in no other manner and following any other course is not permissible....”

In view of the discussions made above, it is expected from Respondent No. 3, the District Magistrate, Jehanabad to take a decision on the application of the petitioner within a period of four weeks from the date of receipt/production of a copy of this order.

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

(Dinesh Kumar Singh, J)

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