

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19203 of 2018

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Abu Zafar, Son of Abu Sayeed, C/o Abu Sayeed House, Resident of Abdul Mojib Road, Near Railway Bridge Barahpura P.S. Ishakchak, District – Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. The S.D.O., Bhagalpur.
6. The Arms Magistrate, Bhagalpur.
7. The Dy S.P. Sadar, Bhagalpur.
8. The S.H.O. Ishakchak.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate

For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 04-10-2018

Heard Mr. Najmul Hoda, learned counsel for

the petitioner and learned counsel for the respondents.

The present writ application has been filed for a direction to Respondent No. 4, the District Magistrate, Bhagalpur–cum- Licensing Authority under the Arms Act to take a decision on the application of the petitioner submitted on 16.04.2010 for grant of licence for N.P. Bore Revolver.

It is submitted by learned counsel for the petitioner that the petitioner being a businessman and having landed property, sensed insecurity to his life and property and as



such, he submitted an application on 16.04.2010 before the District Magistrate, Bhagalpur for grant of licence for N.P. Bore Revolver. The petitioner learnt that the police made recommendation in favour of the petitioner but in spite of the same, decision has not been taken on the application of the petitioner. Hence, the present writ application.

Learned counsel for the respondents 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.

Having heard the learned counsel for the parties, this Court is of the view that Rules 13 and 14 of the Arms Rules, 2016 (hereinafter referred to as the 'Rules, 2016) prescribes a time frame for submission of the police report as well as for taking a decision on the application by the licensing authority. Rule 14 of 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. It appears that more than six years have been passed since the petitioner submitted application but there is nothing on record to suggest that any order has been passed by the licensing authority as yet.

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. 4, the District Magistrate, Bhagalpur 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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