

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19095 of 2018

=====

Dr. Om Prakash Kumar S/o late Ram Wali Sah Resident of Mohalla-Damodarpur, P.S. Kanti, District- Muzaffarpur.

.... Petitioner/s

Versus

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

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mani Bhushan Kumar, Advocate

For the Respondent/s : Mr. P.K.Verma, AAG-3

Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 04-10-2018

Heard Mr. Mani Bhushan Kumar, learned

counsel for the petitioner and Mr. Sanjay Kumar Ghosarvey, learned AC to AAG-3.

The present writ application has been filed for a direction to Respondent No. 2, the District Magistrate, Muzaffarpur-cum- Licensing Authority under the Arms Act to take a decision on the application of the petitioner submitted on 08.03.2018 for grant of licence for Pistol.

It is submitted by learned counsel for the petitioner that the petitioner is a medical practitioner but apprehending insecurity to his life and property submitted an application on 08.03.2018 before the District Magistrate, Muzaffarpur for grant of licence for Pistol. Subsequently, the



police also made recommendation in favour of the petitioner but in spite of the representation being filed by way of reminder, decision has not yet been taken on the application of the petitioner. Hence, the present writ application.

Mr. Sanjay Kumar Ghosarvey, learned AC to AAG-3 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, he 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 months 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 time prescribed under a statute to be done in a particular manner then it has to be done in that particular manner or not at all. 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 of the same. In other words, where a statute 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. 2, the District Magistrate, Muzaffarpur 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)

DKS/-

U			
---	--	--	--

