

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15884 of 2018

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Santosh Kumar Singh, Son of Late Shiv Bilash Singh, Resident of Village-Badyoga, Police Station-Nokha, District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Superintendent of Police, Rohtas, Sasaram.
5. The Officer Incharge, Nokha Police Station, District-Rohtas at Sasaram.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Choubey, Advocate
For the Respondent/s : Mr. Partha Sarthi, GA-4
Mr. Kumar Bikram, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 07-09-2018

Heard Mr. Surendra Kumar Choubey, learned

counsel for the petitioner and Mr. Kumar Bikram, learned AC to GA-4.

The present writ application has been filed for a direction to Respondent No. 3, the District Magistrate, Rohtas at Sasaram –cum- Licensing Authority under the Arms Act to pass order on the application of the petitioner for the grant of arms licence of N.P. Bore Rifle in pursuance to remand order dated 22.04.2014 passed by Respondent No. 2, the Commissioner, Patna Division, Patna in Arms Appeal No. 521 of 2012, as contained in Annexure-5.



It is submitted by learned counsel for the petitioner that the petitioner is an agriculturist. The father of the petitioner had been holding a license for Rifle, being Licence No. 9/80. The father of the petitioner died on 22.11.2007 and thereafter the petitioner deposited the said Rifle on 30.01.2008 before an Arms dealer namely, M/s Rakesh Shastragar, Buxar. The receipt of the deposit has been brought on record as Annexure-1. Subsequently, the petitioner submitted an application in proper format in the year 2009 for grant of arms licence for the N.P. Bore Rifle. Consequent to the application the Superintendent of Police, Rohtas at Sasaram submitted the report recommending the grant of licence in favour of the petitioner, but the application of the petitioner was kept pending. Subsequently vide order dated 10.09.2012 passed in Arms Case No. 118 of 2012, as contained in Annexure-4. The District Magistrate –cum- Licensing Authority, Rohtas at Sasaram, rejected the application of the petitioner on the ground that the petitioner failed to produce any documentary evidence to satisfy the licensing authority with regard to threat to his life and property. He also denied about any threat being given to him or regarding any dispute with anyone.

The order of the District Magistrate was challenged in Arms Appeal No. 521 of 2012 and the Divisional



Commissioner, Patna Division, Patna vide order dated 22.04.2014 remanded the matter to District Magistrate, Rohtas to consider the application of the petitioner in view of the heirloom policy, since his father was an arms licensee, but since then the matter is pending before the District Magistrate, Rohtas at Sasaram for the reason best known to him. Hence, the present writ application.

Learned AC to GA-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 after remand by Divisional Commissioner, but he submits that if any decision has not been taken till date, it will be taken by the licensing authority within a reasonable time frame.

It appears that in spite of time frame under Rules 13 and 14 of the Arms Rules, 2016 the Licensing Authorities are still keeping the applications submitted for grant of arms licence pending for months and years together and thereby they have failed to discharge their statutory obligation under the Arms Act and the Rules. Rule 14 mandates for submission of police report by Station House Officer of nearest Police Station to the licensing authority within thirty days on receipt of the application by him on the asking of such report by the licensing authority, whereas Rule 13 mandates the licensing authority to



consider the application and on being satisfied that the applicant has fulfilled the eligibility condition, he shall grant or refuse to grant license by speaking and reasoned order in writing within sixty days of receipt of the police report. Though, prior to coming into force of Arms Rules, 2016 with effect from 15th July, 2016, there was absence of any specific provision under the Arms Act or the Rules with regard to giving preference to the heirs/nominee of the licensee. However, Ministry of Home, Govt. of India issued directives stipulating therein to give preference to such heirs and nominee of the licensee, if the licensee has attained 70 years of age or he is a licensee for 25 years. Consequently directives were also issued by the Department of Home, Govt. of Bihar but it bore a very marginal impact on the licensing authority, pursuant to which, it appears that Rule 25 has been incorporated in Arms Rules, 2016 which provides mechanism for grant of licence to the legal heirs of the licensee which suggests that the licensing authority may grant licence after death of the licensee, to his legal heir or in any other case, on the licensee attaining the age of seventy years or on holding of the fire-arm for twenty-five years, whichever is earlier, to any legal heir nominated by him, provided that the applicant is otherwise eligible or there is no adverse report.



It is true that no one can possess a fire-arm without a valid licence but there is a difference between a fresh application and applications made by the heirs/nominee of the licensee and in view of Rule 25 of the Arms Rules, 2016, preference has to be given to the heirs/nominee of the licensee since the requirement of licence to the family has already been verified and approved. Hence, in such circumstances, the licensing authority has to exercise jurisdiction in view of the fact that the family has been retaining the arms, then there is no reason for denial of licence in his favour. Moreover, in such cases, like, the petitioner, they have to bear unnecessary financial cost of keeping the arms with some Arms dealer.

In view of the discussions made above, it is expected from Respondent No. 3, the District Magistrate, Rohtas at Sasaram to dispose of the arms case pending with regard to the petitioner within a period four weeks from the date of receipt/production of a copy of this order.

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

(Dinesh Kumar Singh, J)

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