

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19952 of 2018

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Shiv Shankar Kumar Singh, Son of Nagina Singh, Resident of Kunnath,
P.O. – Parariya, P.S. – Shambhuganj, District – Banka.

.... Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. District Magistrate, Banka.
3. District Arms Magistrate, Banka.
4. Additional District Magistrate (Arms), Banka.
5. Superintendent of Police, Banka.
6. Sub-Divisional Magistrate, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. B. N. Pandey, Advocate
Mr. Deepak Kumar, 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 Mr. B.N. Pandey, 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. 2, District Magistrate, Banka to take
a decision on the application of the petitioner submitted for grant
of arms licence for DBBL Gun.

It is submitted by learned counsel for the
petitioner that the petitioner is a businessman and father of the
petitioner was a licensee for DBBL gun bearing Licence No.
124/4/1983. He never misused and it has been renewed up date.
Since the father of the petitioner about 80 years of age and has



remained a licensee for more than 25 years and feeling insecurity to the life and property, the petitioner submitted an application for grant of arms licence for DBBL gun in the year, 2015. After coming into force of Arms Rules, 2016 the petitioner submitted application in new format under Form A-I of Rule 11 of Arms Rules, 2016 along with affidavit and required fee of Rs.1000/- before the District Magistrate, Banka on 06.12.2016. Subsequently, the petitioner was directed to appear before the District Magistrate on 15.07.2017 and the petitioner appeared but no action was taken. Thereafter, the petitioner submitted representation on 01.10.2018 for taking decision on the application of the petitioner in view of the time frame prescribed under Rules 13 and 14 of the Arms Rules, 2016, but no decision has been taken.

It is further submitted by learned counsel for the petitioner earlier also through executive instructions issued by the Ministry of Home, Govt. of India a direction was issued to give preference to such heirs and nominee of the licensee, who either attained the age of 70 years or retained the licence for 25 years. Consequently, an advisory was issued by the Department of Home, Govt. of Bihar under the signature of the then Principal Secretary, Home, but it appears that advisory has very little impact



on the licensing authorities. Realizing the same while drafting Rule 25 of Arms Rules, 2016 a provision has been incorporated for giving preference by the licensing authority to the legal heirs of the licensee on his death or by nomination of licensee to any of his legal heirs, if he has attained the age of 70 years or he is a licensee for 25 years.

In the present case the petitioner's father got licence in 1983 and the application was submitted in 2015, meaning thereby that when the application was submitted the petitioner's father was a licensee for 32 years. A specific statement has been made in paragraph 3 of the petition that on the date of application the age of the father of the petitioner was 80 years hence, on both counts the petitioner application deserves consideration provided as stipulated under proviso to Rule 25(1) of Arms Rules, 2016 that if the such legal heir is fulfills the eligibility conditions under the Act and Rule and there is no adverse remark in the 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.

Rule 14 of Arms Rules, 2016 makes its imperative on the part of the licensing authority to call for a report from Officer-in-Charge of the nearest police station on receipt of application for grant of licence in sub-section 1 of Section 13 on every subsequent renewal thereof under Section 15, thereafter, such Officer-in-charge has to submit the report within thirty days of such requisition being received by him. Rule 13 prescribes time limit for passing an order by the licensing authority which mandates 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.

In the present case it appears that more than three years have already been elapsed but there is nothing on record that any decision has been taken on the application of the petitioner.

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.

In view of the discussions made above, it is expected from respondent no. 2, the District Magistrate, Banka to take a final 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 keeping in view the parameters under Rule 25 of the Arms Rules, 2016.

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

(Dinesh Kumar Singh, J)

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