

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17578 of 2018

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Narendra Kishore Shrivastava, Son of Late Shree Mangal Prasad Shrivastava, Resident of Village-Bhitiharava, P.S.-Gaunaha, District-West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Home.
2. The District Magistrate, West Champaran at Bettiah.
3. The District Arms Magistrate, West Champaran at Bettiah.
4. The Superintendent of Police, West Champaran at Bettiah.
5. The Sub-Divisional Officer, Narkatiyaganj, West Champaran.
6. The Officer-in-Charge, P.S.-Gaunaha.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prithvi Nath Mishra, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 11-09-2018 Heard Mr. Prithvi Nath Mishra, learned counsel for the petitioner and Mr. Manish Kumar, learned GP-4.

In view of the nature of the order this Court intends to pass, there is no need for adjourning the matter any further.

The present writ application has been filed for a direction to the respondent authority, particularly, the District Magistrate, West Champaran at Bettiah to take a final decision on the application of the petitioner filed for grant of arms license for D.B.B.L. Gun.

The factual matrix of the case is that the father of the petitioner, late Mangal Prasad Shrivastava was holding a licence for D.B.B.L. Gun, bearing Gun Licence No. 424 and D.B.B.L.



Gun No. 123053. Since, the father of the petitioner became old, hence, the petitioner submitted an application on 11.05.2011 before the District Magistrate, West Champaran at Bettiah for grant of arms licence for D.B.B.L. Gun. Subsequently, the concerned Officer Incharge of the nearest police station and Superintendent of Police submitted police report in 2013. Subsequently, the father of the petitioner died on 10.06.2013 and the petitioner in pursuance to the order of the Sub Divisional Officer, Narkatiaganj deposited the D.B.B.L. Gun before the arms dealer namely, M/s. Bihar Traders Arms and Ammunitions Dealer, Narkatiyaanj, West Champaran. The receipt of the same has been brought on record as Annexure-5 series but till date no order has been passed on the application of the petitioner. Hence, the present writ application.

Mr. Manish Kumar, learned 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 yet been taken till date, it will be taken by the licensing authority within a reasonable time frame.

This Court dismayed to find that on the application, submitted on 11.05.2011, the licensing authority failed to take a



decision in last 7 years. Though, earlier, there was no time frame fixed for taking a decision by the licensing authority under Section 13 of the Arms Act, 1959 or Rule 51 of Arms Rule, 1962. But time without number this Court has repeatedly directed the licensing authorities to dispose of the applications for grant of arms licence within time. One of such cases in the case of Dwivedy Surendra Vs. The State of Bihar and another reported in 2007(3) PLJR 76, directed all the licensing authority to dispose of all the pending applications for licence within a period of two months in which the police report has been received and in the case of non-receipt of the police report within a period of four months, but in spite of the same the applications were kept pending and consequently, an advisory had to be issued by the State Government to that effect, but in spite of that the licensing authority continued to behave in a callous manner.

As a result, in Arms Rules, 2016 the specific time frame has been given for submission of police report as well as to take a decision by the licensing authority by a speaking and reasoned order on receipt of the police report. Rule 14 of Arms Rules, 2016 stipulates that the Officer-in-Charge of the nearest police station will submit the report to the licensing authority within thirty days of receipt of the application by him, whereas Rule 13 of Arms



Rules, 2016 stipulates that the licensing authority will take a final decision by a speaking and reasoned order either granting or refusing to grant the arms licence within sixty days of the receipt of police report, but there is nothing on record to suggest that any final order has been passed which prima facie suggests that licensing authority is either not having any regard for statutory provision, or he is not bothered to adhere to the statutory provisions. Rule 25 of Arms Rules, 2016 clearly stipulates about preference to be given to the heirs/nominee of the licensee, if the licensee has attained the age of 70 years or he is a holder of licence for 25 years.

It appears from the pleadings on the record that the petitioner applied for grant of arms license in 2011, when his father, a holder of arms licence, was 80 years of age, who subsequently died in the year 2013, almost two years after submission of the application.

In view of the discussions made above, it is expected from Respondent No.2, District Magistrate, West Champaran at Bettiah to take a final decision on the application of the petitioner by a reasoned and speaking order in writing, in terms with Rules 13 and 25 of the Arms Rules, 2016 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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