

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18636 of 2018

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Amit Kumar, Son of Sri Vijay Kumar, resident of Kavi Rai Path,
Pirmuhani, P.S.- Digha, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Dept. of Home.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The S.H.O., Police Station, Digha, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Chandra, Advocate
Mr. Javed Aslam, Advocate
For the Respondent/s : Mr. P.K. Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 04-10-2018

Heard Mr. Bipin Chandra, learned counsel

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

3.

Learned counsel for the petitioner is permitted to make necessary correction in the petition.

The present writ application has been filed for a direction to Respondent No. 2, the District Magistrate, Patna-cum- Licensing Authority under the Arms Act to take a decision on the application of the petitioner submitted on 03.09.2013 for grant of licence for Revolver.

It is submitted by learned counsel for the



petitioner that the petitioner deals in jewellery business and he is apprehending threat to his life and property and therefore, he submitted an application for grant of arms licence on 03.09.2013 before Respondent No. 2, the District Magistrate, Patna for grant of licence for Revolver and subsequently, the police recommended the case of the petitioner for grant of arms licence but in spite of that, decision on the application of the petitioner has not been taken and his application has been kept pending. 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.

Though there was no time frame fixed for taking decision on the application submitted for grant of licence either under Sections 13 and 14 of the Arms Act, 1959 or under Rule 51 of the Arms Rules, 1962 but now time frame has been fixed under Rules 13 and 14 of the Arms Rules, 2016 (hereinafter referred to as the 'Rules, 2016'). 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, whereupon the Officer-in-Charge 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 for 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 five years have been passed since the petitioner submitted application for grant of arms licence, but there is nothing on record to suggest that any decision has been taken or any order has been passed by the licensing authority till date.

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. 2, the District Magistrate, Patna 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 aforementioned observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

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