

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No.633/2021**

Shri Suresh Gupta and others

.....Petitioner(s).

**V E R S U S**

The State of Tripura & others

.....Respondent(s).

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For Petitioner(s) : Mr. P.K. Ghosh, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharya, G.A.,  
Mr. Biswanath Majumder, CGC,  
Mr. Soumyadeep Saha, Advocate.

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**HON'BLE THE CHIEF JUSTICE (ACTING)**

**Order**

**10/04/2023**

Heard Mr. P.K. Ghosh, learned counsel appearing for the petitioners. Also heard Mr. Debalay Bhattacharya, learned Government Advocate assisted by Mr. Soumyadeep Saha, learned counsel appearing for the respondents No.1 to 3 and Mr. Biswanath Majumder, learned CGC appearing for the respondent No.4, Union of India.

2. This instant writ petition has been filed under Article 226 of the Constitution of India (i) for quashing the guidelines dated 18.09.2018 framed by the Forest Department, Government of Tripura; (ii) for quashing the notification dated 15.11.2018; (iii) directing the respondents to follow

the guidelines of SOP as per the Hon'ble Supreme Court's order dated 12.05.2001 passed in WP(C) No.202/1995; and also (iv) directing the respondents to withdraw the imposition of Ecological Sustainability Charge on export of surplus timber and allied products from the State of Tripura.

3. The fact of the case, in brief, is that the petitioners are the registered owners of saw mills. They used to transport timbers from the State of Tripura to other parts of the country through Dharmanagar Railway Station as per guidelines issued by the Government of India from time to time. But in 2018 the State of Tripura without having any authority framed a new guideline in the name of Standard Operating Procedure (SOP) contrary to the Central guidelines for determining "surplus timber" for exporting from Tripura to other parts of the country through railways thereby no timber can be exported outside the State except "surplus timber". By way of this guidelines, the State has decided to impose charge on Ecological Sustainability on export of 50% of the surplus timber outside the State. As such, the petitioners sustained huge monetary loss in transporting sawn timber and molding beats outside the State. Aggrieved thereby, they have approached this Court by filing this writ petition. Hence, this case.

4. Petitioners have prayed for the following reliefs:

"(i) Issue Rule upon the State Respondents to show cause as to why all records relating to the case of the petitioners should not be transmitted to this Hon'ble Court;

AND

(ii) As to why a writ in the nature of Certiorari should not be issued quashing the guidelines framed by the Forest Department, Government of Tripura vide No.F.7(111)/ For/ For/FP/FP-2016-17/Railway/449-458 dated 18.09.2018 in respect of Standard Operative Procedure (SOP) for determining Surplus timber for export from Tripura State through Railways;

AND

(iii) As to why a writ in the nature of Certiorari should not be issued quashing the Notification vide No.F.7(111)/ For/ FP-2016-17/Railway/617-661 dated 15.11.2018 imposing Ecological Sustainability Charge on export of surplus timber and allied products from the Tripura State and also the notification dated 15.11.2018 and allowing to export only 50% of the surplus timber;

AND

(iv) As to why a writ in the nature of Mandamus should not be issued directing the State Respondents to follow the guidelines of Standard Operative Procedure (SOP) for wood-based units and registered timber transporters of North-Eastern States-formulated by the Ministry of Environment & Forests (North-East Cell), Government of India as per the Hon'ble Supreme Court's order dated 12.05.2001 in WP(C)

No.202/1995 and also to follow subsequent guidelines dated 12.04.2016 and 09.05.2017 issued by Ministry of Environment, Forest & Climate Change (SU Division), Government of India in the State of Tripura;

AND

(v) As to why a writ in the nature of Mandamus should not be issued directing the State Respondents to follow the order issued by the Special Investigating Team (SIT) (Constituted pursuant to Hon'ble Supreme Court's order dated 13.01.2000 in WP(C) No.202/1995) on 30.12.2005 and subsequent order issued on 22.08.2014 in respect of Railway wagons allowed for quarterly loading of sawn timber from Dharmanagar Railways Station;

AND

(vi) As to why a writ in the nature of Mandamus should not be passed directing the State Respondents to withdraw the imposition of Ecological Sustainability Charge on export of surplus timber and allied products from the Tripura State @ Rs.3,500/- per cum (Rs.100/- per cft.);

AND

(vii) As to why such other order or orders should not be passed so as to give full reliefs to the petitioners and upon causes shows to make the Rule absolute.”

5. Mr. P.K. Ghosh, learned counsel appearing for the petitioners, contends that the Ministry of Environment and Forests (NE Cell) had framed guidelines dated 27.09.2001 for setting up of wood based units in North-Eastern States following the order of the Apex Court dated

12.05.2001. But the Government of Tripura without having any authority framed a new guideline in the name of SOP contrary to the Central guidelines for determining "surplus timber" for exporting from Tripura to other parts of the country through railways. Counsel also contends that the State of Tripura again imposed Ecological Sustainability charge on export of 50% of the surplus timber outside the State causing huge financial loss to the petitioners. Accordingly, he prays for quashing the impugned guidelines framed by the State of Tripura and also to withdraw the charge imposed on export of surplus timber.

On the other hand, Mr. Debalay Bhattacharya, learned Government Advocate assisted by Mr. Soumyadeep Saha, learned counsel appearing for the respondents No.1 to 3, contends that such guidelines have been framed by the authority to check deforestation and to maintain ecological balance. Counsel also contends that charge imposed on export of 50% of the surplus timber outside the State and as such, balance 50% of the surplus timber would be available in the local market. Accordingly, he contends that the respondents-Forest authority have rightly framed the guidelines and prays for dismissal of the writ petition.

6. In view of the submissions of learned counsel for the respective parties, *prima facie* this Court opines that there is no impugned

order under challenge effecting the rights of the petitioners. There is no cause of action. This writ petition is filed challenging the departmental scheme. This is not an order passed in specific effecting the rights of the petitioners. In the affidavit the petitioners have not categorically expressed and have not demonstrated as to how the scheme formulated has effected their constitutional rights. Accordingly, the present writ petition is disposed of directing the petitioners to file their respective representations before the respondent authorities ventilating their grievances and on receipt of the same, the respondents shall consider the case of the petitioners in accordance with law and pass orders giving specific findings within a period of two months from the date of receipt of such representations.

7. With the above observation and direction, the writ petition is disposed of.

Pending application(s), if any, also stands disposed of.

**CHIEF JUSTICE (ACTING)**

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