

GAHC010135822017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4529/2017

SULTAN ALI
S/O. LT. NIYAMAT ALI, VILL. BELTOLIO HAKAMA PART-V, P.O. HAKAMA,
P.S. BILASIPARA, DIST. DHUBRI, ASSAM.

VERSUS

THE STATE OF ASSAM and 5 ORS.
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, INDUSTRIES and
COMMERCE DEPTT., DISPUR, GHY.-06.

2:THE PRINCIPAL CHIEF CONSERVATOR

FORESTS AND HEAD OF FOREST FORCE
ASSAM
PANJABARI
GHY.-37.

3:THE SECRETARY
TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT.
DISPUR
GHY.-06.

4:THE DIVISIONAL FOREST OFFICER

DHUBRI
DIST. DHUBRI
ASSAM.

5:THE DY. COMMISSIONER

DHUBRI

DIST. DHUBRI
ASSAM.

6:THE GENERAL MANAGER

DISTRICT INDUSTRIES AND COMMERCE CENTRE
DHUBRI
DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MRG DEKA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

25.07.2024

Heard Mr. P.K. Roychoudhury, learned counsel for the petitioner. Also heard Mr. I. Borthakur, learned counsel for the Forest Department; Mr. N. Kalita, learned counsel for the respondent Nos.1 & 6 and Mr. S.R. Baruah, learned counsel for the respondent No.5.

2. The writ petitioner claims to be an educated unemployed youth, keen to start a manufacturing unit and with that end in view, he had established a mini sawmill, i.e., M/s J.C. Mini Sawmill, which was also functioning for some time till the same was abruptly stopped by the respondents. The petitioner's grievance is that despite repeated requests seeking permission to reopen the sawmill, no action has been taken till date.

3. The petitioner's counsel submits that the petitioner has submitted a representation dated 28.09.2016 to the Chief Minister of Assam, Dispur,

requesting for permission to open M/s J.C. Mini Sawmill. However, no decision has been taken by the respondent authorities till date. He submits that this writ petition can be disposed of, if a direction is issued to the respondent No.4 to take a decision on the petitioner's representation dated 28.09.2016 (Annexure-B) within a specified time period.

4. Mr. I. Borthakur, learned counsel for the Forest Department submits that the opening of M/S J.C. Mini Sawmill by the petitioner was an unauthorized act committed by the petitioner, as he had never obtained any prior permission from the concerned authority for opening the same. He also submits that mere filing of an application seeking permission for opening a mini sawmill cannot be said to be a legal right that has fallen upon the petitioner for opening the mini sawmill. He submits that the petitioner would require to seek requisite clearance/licence/permission under the laws of the Central and State Government for opening a sawmill. He however submits that the petitioner's representation can be decided by the respondent No.4.

5. The other respondents counsel submit that they have got no comments to make in view of the stand taken by the Forest Department.

6. I have heard the learned counsels for the parties.

7. Para 4 & 5 of the affidavit-in-opposition filed by the respondent No.4 states as follows:-

“4. That with regard to the statements made in paragraph No.2 in the writ petition the answering deponent begs to state that opening of Mini Saw Mill in the name and style of M/S J C Mini Saw Mill at Beltoli (Hakma Part -V) was an unauthorized act committed by the petitioner i.e Sri Sultan Ali, as he has never

obtained any prior permission from the concerned authority as wrongly claimed by him as evident from the fact that there are no such records available in the office of the DFO, Dhubri Division regarding the establishment of "M/S J C Mill". It is worth to state here that filing of a mere application seeking permission for opening of Mini Saw Mill and thereby, acquiring of an acknowledgement from an authority other than the authority concerned for the purpose, cannot be held to have a legal right, based upon which the petitioner had opened the mini saw mill.

Moreover, careful perusal of the acknowledgement bearing No.DICC/DHUBRI/EM(PT-1) 01567/2011 dtd. 17/11/2011 (enclosed as annexure A in the writ petition) as issued by the General Manager, District Industries and that the above quoted Commerce Centre, Dhubri, clearly reveals acknowledgement was itself made subject to the other applicable mandatory Laws and Rules for the instant purpose, as it has been categorically noted therein that "the issue of the acknowledgement does not bestow any legal right. The entrepreneur is required to seek requisite clearance/license/permit required under statutory obligation under the Laws of Central/ State Government/UT administrations/Courts order".

Hence, from the above narration it is amply clear that the petitioner's contention to have opened his Mini Saw Mill with due permission from concerned authority is not true and deserves no consideration.

5. That with regard to the statements made in paragraph no. 3 of the writ petition, the answering deponent begs to state that regarding the functioning as well as stoppage of the Mini Saw Mill, there is no any official order in the strength of which the Mini Saw Mill was operated as claimed by the petitioner. In addition to this, it is to be mentioned here that Forest Department deals with receipt and lawful dispatch of timber in case of saw mill, timber depot etc. for which prior permission is accordingly required, which the petitioner even did not obtain.

However, the deponent reiterates that the acknowledgement dtd. 17/11/2011 cannot be considered to have a legal force as the same was itself made subject to obtaining of necessary license/permit by the concerned authority as per rules and procedure in vogue, as stated above in para 2.

Hence, the claim of the petitioner over the legality of opening and functioning of his Mini Saw Mill is not sustainable and is liable to be set aside."

8. The gist of the above mentioned paras 4 and 5 of the affidavit-in-opposition filed by the respondent No.4, is to the effect that no prior permission had been taken by the petitioner for establishment of M/s J.C. Sawmill. However, as the counsels for the parties have consented to the respondent No.4 taking a decision on the petitioner's representation dated 28.09.2016, this writ petition is disposed of with a direction to the respondent No.4 (DFO, Dhubri), to take a decision on the petitioner's representation dated 28.09.2016, within a reasonable period of time. The decision taken by the respondent No.4 should thereafter be communicated to the petitioner.

9. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant