

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1216 of 2015

IN

Civil Writ Jurisdiction Case No. 8308 of 2015

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1. Bijay Kumar Giri, son of Late Ram Bachan Giri, Resident of Tumaria Tola, Ward No.2, P.O. & P.S. Raxaul, District East Champaran, the Proprietor of M/s Garib Mazdoor Saw Mill having its place of business at Dhangarhwa, Parewa, P.O. & P.S. Raxaul, District East Champaran.
 2. Surendra Prasad son of Sri Lal Sah, Resident of Ward No.1, At P.O. & P.S. Raxaul, District East Champaran, the Proprietor of M/s Sahu Timber Saw Mill having its place of business at Hawaii Adda Road, Ward No.2, At P.O. & P.S. Raxaul, District East Champaran.
 3. Shesh Nath Gupta son of Late Yogendra Sah, Resident of Ward No.1, At P.O. & P.S. Raxaul, District East Champaran, the Proprietor of M/s Laxmi Saw Mill having its place of business Hawaii Adda Road, At P.O. & P.S. Raxaul, District East Champaran.
 4. Praveen Kumar @ Pradeep Kumar son of Late Rajendra Prasad, Resident of Ramgarhwa, P.S. Ramgarhwa, District East Champaran, the Proprietor of M/s Pradeep Saw Mill having its place of business at Main Road Ramgarhwa, P.S. Ramgarhwa, District East Champaran.
 5. Reyaz Ahmad son of Abdul Raufe, Resident of Nauka Tola, Hardia Kothi, P.O. & P.S. Raxaul, District East Champaran, the Proprietor of M/s Reyaz Saw Mill having its place of business at Nauka Tola, Hardia Kothi, P.O. & P.S. Raxaul, District East Champaran

.... Petitioners/Appellants

Versus

1. The State of Bihar, through Commissioner-cum-Principal Secretary, Department of Forest & Environment, Government of Bihar, Patna
2. The Principal Chief Conservator of Forest, Department of Forest and Environment, Bihar, Patna
3. The District Level Committee constituted under Letter no.2675 dated 30.08.2010 of the department of Forest and Environment, through its Chairman-cum-Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The Regional Chief Conservator of Forest, Tirhut Forest Division, Muzaffarpur.
5. The Licensing Authority-cum-Divisional Forest Officer, Motihari Forest Division, District East Champaran.
6. The Ranger of Forest, Raxaul, District East Champaran
7. The Forester, Raxaul, District East Champaran.

.... Respondents/Respondents

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Appearance :

For the Appellants : Mr. Alok Kumar Agrawal, Adv.

For the Respondents : Mr. Ajay Bihari Sinha- SC19

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07-07-2015

The appellants herein established saw mills at various places in the East Champaran district after obtaining licences from the concerned authorities. The licences were also being renewed from time to time.

The appellants submitted application for renewal of their licence for the year 2015-2016. Through a communication dated 8.4.2015, the Divisional Forest Officer-cum-Licensing Authority, 5th respondent herein, informed the appellants that their saw mills do not figure in the list of selected saw mills for the district East Champaran and, accordingly, the request for the renewal of licences cannot be acceded to. Directions were also issued to subordinate staff to dismantle the mills if they are found to be in working condition. The appellants filed C.W.J.C. No.8308/15 challenging the orders referred to above.

Learned Single Judge refused to entertain the writ petition solely on the ground that the petitioners have an effective remedy of Appeal before the District & Sessions Judge. Hence, this Letters Patent Appeal.

Heard Shri Alok Kumar Agrawal, learned counsel for the appellants and Shri Ajay Bihari Singh, learned Senior Counsel for the respondents.



It is, no doubt, true that the High Court would be slow to entertain the writ petition when the petitioner has an effective alternative remedy by way of statutory appeal. However, there are certain well-recognized exceptions to that. One of them is where order is passed in violation of principles of natural justice; and the other is where the order is passed wholly without jurisdiction. Apart from these two, there are certain other exceptions also.

In the instant case, it is not in dispute that the saw mills were established more than a decade ago, after obtaining the licences from the competent authority. In case there is any violation on their part, the licences can be cancelled by initiating the proceedings. Further, if the petitioners did not qualify for renewal, the reasons must be stated.

One strange reason assigned in all the orders refusing renewal is that the names of the saw mills of the appellants do not figure in the list of selected saw mills. The relevant law does not provide for preparation of such a select list. If an exercise of that nature was undertaken, it was fundamental that all the functional saw mills were given opportunity to put forward their cases. There cannot be any unilateral preparation of select list and denial of

licence on that basis.

We, therefore, allow the Appeal. Consequently, the writ petition is allowed and the individual orders dated 8.4.2015, served to the petitioners (appellants herein) are set aside. The 5th respondent, i.e. the Licensing Authority, shall give an opportunity to the petitioners to represent their cases and shall also indicate the basis on which the list of selected saw mills was prepared. In case the petitioners were not found to have violated any provisions of law, they shall be granted renewal without any delay. Till such time, the appellants shall be entitled to run the mills, duly following the relevant provisions of law and conditions of licence.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-
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