

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15880 of 2015

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M/s Nagina Saw Mills through its Proprietor Nagina Singh, S/o Late Ram Nandan Singh, R/o Vill. + P.O. - Rupdih, P.s. - Motohari Muffasil, District - East Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Forest Department, Govt. of Bihar.
2. The Principal Chief Conservator of Forest, Bihar, Patna.
3. The Regional Conservator of Forest, Muzzaffarpur.
4. The Commissioner, Tirhut Division, Muzzaffarpur.
5. The Conservator of Forest, Siwan.
6. The Divisional Forest Officer cum Licensing Officer, Motihari Forest Division, Motihari.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sharma
For the Respondent/s : AC to GP - 3

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 03-11-2015 Heard Sri Ajay Kumar Sharma, learned counsel for the petitioner and learned A.C. to Govt. Pleader – 3.

The petitioner in the present writ petition is aggrieved with the order of the licensing authority i.e. Divisional Forest Officer, Motihari Division, Motihari, whereby, he has refused to renew the licence of the saw mill of the petitioner.

At the very outset, a preliminary objection was raised by learned counsel for the State that against the order impugned, there is statutory remedy available to the petitioner under Section 12 of the Bihar Saw Mills (Regulation) Act, 1990.



Sri Sharma, learned counsel for the petitioner controverting the stand of the State counsel submits that almost in similar situation, a writ petition was dismissed on the ground of availability of statutory remedy, however; a Division Bench of this Court in appeal i.e. L.P.A. No. 1216 of 2015 by its order dated 07-07-2015 interfered with the matter. He submits that in exceptional cases, this Court is well empowered to entertain the writ petition, even after noticing the availability of the statutory remedy. Learned counsel for the petitioner has also argued that without any notice, such order has been passed, which is against the principle of natural justice as well as against Rule 6 of the Bihar Saw Mills Rules, 1993.

It is true that the writ court has not been denuded with the power to entertain a writ petition, even in a case where there is statutory remedy, but such power is to be exercised in exceptional case. The law on this point has already been set at rest. The Hon'ble Apex Court in a case reported in **(2010) 8 Supreme Court Cases 110 (United Bank of India Vs. Satyawati Tondon and others)** dealing with similar situation has observed in paragraph – 43, which is as follows:-

“Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and



that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenged to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.”

This has again been reiterated in **(2011) 14 Supreme Court Cases 337 (Nivedita Sharma Vs. Cellular Operators Association of India and others).**

In view of the facts and circumstances of the present case, particularly; the fact that there is efficacious alternative remedy available to the petitioner under Section 12 of the Bihar Saw Mills (Regulation) Act, 1990, it would not be appropriate for this Court to exercise its writ jurisdiction.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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