

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20186 of 2014

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M/s J.K. Saw Mill having its place of business at Kanth Chhapra, P.O.- Ashok Pakari, P.S.- Pipra, District East Champaran through its Proprietor Jahangir Khan son of Late Sahjeet Khan, R/o Kanth Chhapra, P.O.- Ashok Pakari, P.S.- Pipra, District East Champaran

.... Petitioner/s

Versus

1. The State of Bihar, through Commissioner-cum-Principal Secretary, Department of Forest AND 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, Motihari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal

For the Respondent/s : AC to GP No. 13

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 10-09-2015

Heard Sri Alok Kumar Agrawal, learned counsel for the petitioner and learned AC to GP No. 13.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has mainly prayed for quashing of an Order No. 48 contained in Memo No. 1956 Dated 18.12.2013 whereby the so-called license issued to the petitioner under the provisions of Bihar Saw Mill (Regulation) Act, 1990 was cancelled by the Licensing Authority -cum -Divisional Forest

Officer, Motihari Forest Division, Motihari. The petitioner has also prayed for issuance of direction to respondents not to disturb the Saw Mill business of the petitioner and further for declaring selection list Dated 20.9.2012 prepared by the Three Members Selection Committee as legal and valid.

A plea has been taken by learned counsel for the petitioner that the petitioner's Saw Mill was included in the Seniority List of Saw Mills prepared by the Three Members Selection Committee. He further submits that it was alleged that in the name of one license i.e. License No. 410 of 1999 it was alleged that two Saw Mills were being run, one by the petitioner and one another Saw Mill was being run by Sri Nand Kishore Prasad in the name and style of M/s Kishore Saw Mill. He submits that once it was alleged that on the basis of one license two Saw Mills were being run and subsequently license of Sri Nand Kishore Prasad proprietor of namely, M/s Kishore Saw Mill was cancelled and cancellation was approved up to this court vide CWJC No. 245 of 2013, there was no reason or no authority to the licensing authority to cancel the license of the petitioner. On the aforesaid ground a prayer has been made to allow the writ petition

Learned State Counsel opposing the prayer of the petitioner submits that the license i.e. License No. 410 of 1999 was virtually issued in the name of M/s Kishore Saw Mill. He submits that



subsequently it was noticed that M/s Kishore Saw Mill was granted license contrary to the provisions after 1997 and as such, by a separate action license of M/s Kishore Saw Mill having License No. 410 of 1999 was cancelled. He submits that there is nothing on record to suggest that this petitioner was granted Saw Mill license vide License No. 410 of 1999. He submits that since the petitioner was running a Saw Mill without any authority, the licensing authority has rightly cancelled the purported license.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of the impugned order i.e. the Order Dated 18.12.2013 (Annexure - '5' to the writ petition) it is evident that the licensing authority had noticed that on the basis of one license i.e. License No. 410 of 1999 two Saw Mills were running one by Sri Nand Kishore Prasad and the second by Mr. Jahagir Khan, the so-called proprietor of M/s J.K. Saw Mill. After noticing such illegality or irregularity both the persons were noticed and thereafter, both i.e. Sri Nand Kishore Prasad and Sri Jahagir Khan appeared before the licensing authority. Though Sri Nand Kishore Prasad produced certain documents, the petitioner namely, Sri Jahagir Khan took time for producing documents before the licensing authority and thereafter, date was fixed to 4.12.2013. On the date fixed Sri Jahagir Khan did not appear. Thereafter, the



licensing authority issued registered notice on the home address of Sri Jahagir Khan, the proprietor of M/s J.K. Saw Mill, but all efforts went in vain. Since no document in support of the claim of the petitioner was produced before the licensing authority, the licensing authority summoned certain documents from Tirhut Forest Division, Muzaffarpur regarding the license issuing Register, which was received and on examination of the documents, it was found that License No. 410 of 1999 was issued to Sri Nand Kishore Prasad, proprietor of M/s Kishore Saw Mill. The Register further suggested that Sri Jahagir Khan, the proprietor of M/s J.K. Saw Mill was not issued any license. In view of the facts and circumstances the impugned order was passed by the licensing authority. So far the argument of learned counsel for the petitioner regarding cancellation of license of Sri Nand Kishore Prasad (proprietor of M/s Kishore Saw Mill) is concerned, the license of M/s Kishore Saw Mill was cancelled, as submitted by learned counsel for the State, on the ground that license was issued subsequent to 1997 contrary to the provisions. Accordingly, cancellation of license of Sri Nand Kishore Prasad has got no bearing with the present case. After examining the impugned order this court was not at all inclined to interfere with the order of the licensing authority directly exercising writ jurisdiction, but on persuasion of learned counsel for the petitioner this court has

examined and found that there is no illegality in the order i.e. Annexure - ‘5’.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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