

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14164 of 2014

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Parshuram Thakur, son of Late Ram Prit Thakur, resident of village-
Majhanpura, P.O. Revilganj, P.S. Manjhi, District-Saran(Chapra)

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Environment and Forest,
Sichai Bhawan, Patna
2. The Principal Chief Conservator of Forest, Bihar, Office at 4th Floor,
Technology Bhawan, Bishwesharaiya Bhawan Campus, Bailey
Road, Patna
3. The Divisional Commissioner, Saran Division, Chapra
4. The Forest Conservator, Circle Siwan, District- Siwan
5. The Licensing Authority-cum-Divisional Forest Officer, Saran
Forest Division, Chapra
6. The Forester Bit Officer, Ekma, District-Saran (Chapra).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Rai, Adv.

For the Respondent/s : Mr. Nikhil Agrawal, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 12-01-2015 Heard Mr. Arun Kumar Rai, learned counsel for the

petitioner and Mr. Nikhil Agrawal, learned counsel for the

respondents.

The petitioner is aggrieved by the decision of the three
Member Committee headed by the Divisional Commissioner,
Saran Division, Chapra as contained in Annexure-6 whereby the
petitioner has not been found eligible for inclusion in the seniority
list of the Saw Mills and the order bearing No. 2641 dated
24.12.2010 as contained in Annexure-9 whereby the Licensing
Authority-cum-Divisional Forest Officer has informed the



petitioner that his saw mill has not been found to be within the prescriptions of Resolution No. 76/2007-2675 dated 30.8.2010 and thus has not been selected for inclusion in the seniority list. By the same order directions have been issued to the petitioner to dispose of the Timber available in the saw mill within 30 days and remove his saw mill failing which he would be proceeded against under the provisions of the Bihar Saw Mill (Regulation) Act, 1990 (hereinafter referred to as 'the Act') inter alia on grounds of illegal operation of the saw mill. The petitioner is also aggrieved by the order of seizure dated 3.4.2013 passed by the Van Parisar Padadhikari, Ekma as contained in Annexure 12 to the writ petition.

The petitioner admittedly is a holder of licence under the provisions of the Act and the Rules framed thereunder and a copy of the licence is present at Annexure-1 to the writ petition. The licence was granted to the petitioner on 14.12.1995. It is the contention of the petitioner that the said licence has been renewed until 2001 but thereafter in view of the matter pending before the Supreme Court in Civil Appeal No. 202 of 1995 (T.N. Godavarman Vs. Union of India) that the renewal of the licence of the petitioner was not granted and remained pending.

It is the case of the petitioner that he has filed his renewal

applications along with the fee and the last of such application has been placed on record at Annexure-2 which was filed for renewal of the licence for the period 2011/12.

Mr. Rai, learned counsel for the petitioner has submitted that following the publication of the provisional seniority list in the light of the circular of the State Government bearing No. 2675 dated 30.8.2010 and since the name of the petitioner did not find place therein, that he filed his objection on 11.10.2010 as contained in Annexure-5 but the same was rejected by the three Member Committee headed by the Divisional Commissioner, Saran Division, Chapra vide order passed on 9.11.2010, a copy of which is placed at Annexure-6 and the name of the petitioner appears at Serial No. 13. Learned counsel with reference thereto has submitted that the renewal of the licence of the petitioner and the reasons for his non inclusion in the seniority list has been attributed to the illegal purchase/sale of his licence. The document which forms the basis for arriving at such conclusion is attributed to an affidavit filed by the petitioner, a copy of which is placed by the respondents at Annexure-F Series and in which the petitioner has merely informed the respondents that while he has sold of his earlier machine on 2.12.1995 he has purchased a new machine of dimension 36" on 20.4.1996. He submits that accepting the

position, the Licensing Authority continued to renew his licence until 2001 and it is only in the light of the pendency of the matter before the Supreme Court that the renewals were not granted. It is submitted that the premise on which the renewal has been denied and his name has not been included is totally incorrect in as much as he has not transferred either his saw mill or his licence.

Learned counsel with reference to a letter of the Principal Chief Conservator of Forest dated 17.3.2011 and 9.9.2011 present at Annexures 10 and 11 respectively has submitted that the Central Empowered Committee has decided to renew the licence of all Saw Mills pending adjudication of the matter before the Supreme Court.

The arguments of Mr. Rai has been contested by Mr. Agrawal and while contesting as such learned counsel has also referred to Clause-2(vi) of the Circular dated 30.8.2010 to submit that the remedy for the petitioner in such circumstance would lie before the District Judge.

In any other circumstance this Court would be persuaded with the submission of Mr. Agrawal and allow the petitioner to exhaust the alternative remedy available to him under the Resolution dated 30.8.2010 but taking into consideration that the rejection of his objection by the Committee on 9.11.2010 placed at



Annexure-6 is on an incorrect premise for there is no evidence on record to demonstrate that the petitioner has parted with the saw mill or his licence rather the document relied upon by the Committee simply gives information that while the petitioner has sold the old machine, he has replaced the same by a new machine, which in no manner reflects that the petitioner has parted with his licence or that he has transferred his licence in favour of a third person.

In the circumstances discussed the decision of the Committed as reflected at Annexure-6 in so far as the petitioner is concerned not being founded on correct premise cannot be upheld and is set aside and consequently the order passed by the Licensing Authority-cum-Divisional Forest Officer, Saran Forest Division, Chapra dated 24.12.2010 as contained in Annexure-9 as well as the order of seizure dated 3.4.2013 as contained in Annexure 12 also cannot be upheld and are accordingly set aside. The matter is remitted back to the Committee headed by Divisional Commissioner, Saran Division at Chapra for consideration of the case of the petitioner afresh and its disposal expeditiously.

The petitioner should appear with the copy of this order before the Committee headed by the Divisional Commissioner

who shall proceed to dispose of the matter in the light to the stipulations mentioned hereinabove.

The writ petition is allowed.

(Jyoti Saran, J)

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