

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22755 of 2015

and

M.P.Nos.1 and 2 of 2015

G.Ammavasai

...Petitioner

V.

1.The District Forest Officer-cum-Licensing Officer
Villupuram Forest Division, District Collect
Master Plan Complex, Near Circuit House,
Villupuram.

2.The Principal Chief Conservator of Forests
Panagal Maaligai, Saidapet, Chennai 600 015.

3.The Conservator of Forests
Villupuram Circle, No.23A, Ranganathan
Street, Poonthottam, Villupuram 605602.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent in Na.Ka.No.4083/2013 dated 04.09.2014 and consequently direct the 1st respondent to permit the petitioner to shift the place of business of his Saw Mill under the name and style of "Balaji Saw Mill" from Viswalingapathar Layout, Villupuram, Villupuram Taluk, and District, Tamil Nadu to Mambazhappattu Road, Villupuram Town, Villupuram Taluk and District, Tamil Nadu.

For Petitioner .. Mr.Richardson Wilson

For Respondents .. Mr.N.Inbanathan, GA [Forests]

ORDER

Heard Mr. Richardson Wilson, learned counsel for the petitioner and Mr. N. Inbanathan, learned Government Advocate [Forests] appearing for the respondents and with their consent, the writ petition is taken up for final disposal.

2. The petitioner is carrying on the business of running a Saw Mill at Viswalingapthar Layout, Villupuram and claiming to be running the saw mill for the past 15 years in the name and style of "Balaji Saw Mill". The petitioner applied for shifting of the sawmill to a different location which has been rejected by the 1st respondent by the impugned order. By the impugned order, the petitioner has been directed to approach the Central Empowered Committee [CEC] so as to consider the petitioner's application for shifting of the sawmill.

3. Learned counsel for the petitioner submitted that insofar as cases relating to shifting of an existing Mill, where licenses have been granted, the necessity to approach the CEC does not arise and this has been clearly explained and decided by this Court in the case of P. BHARATHI Vs. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS reported in 2014-5-LW-655. Further, the learned counsel submitted that the petitioner being an existing sawmill and not a fresh applicant, the necessity to approach CEC does not arise.

4. The learned Government Advocate [Forests] appearing for the respondents by placing reliance on the counter-affidavit filed by the first respondent reiterates the stand taken in the impugned order and submitted that the 1st respondent has rightly rejected the petitioner's application with a direction to get clearance from CEC. It is further submitted that the petitioner has not availed the alternative remedy and without exhausting the alternative remedy, the petitioner should not have approached this Court directly.

5. This Court heard the submissions made on either side and also perused the materials placed on record.

6. It is to be pointed out that the issue raised in this writ petition is squarely covered by the decision of this Court in the case of P. BHARATHI [cited supra]. In the said case also, the challenge was to the order passed by the District Forest Officer, refusing to grant permission to shift the place of business on the ground that it would amount to granting of fresh license and the applicant should apply fresh application through the State Level Committee and thereafter, get orders from CEC. Justice S. Manikumar, after discussing the matter elaborately and referring to the various provisions of the statute as well as the minutes of the Meeting of CEC held on 12.05.2011, pointed

out that for the purpose of shifting or re-location of the licensed saw mill from one place to another within the State, the approval of CEC is not required and the same is to be considered by the appropriate authorities themselves. In paragraph 32 of the said Judgment, it was pointed out that if shifting has to be done, the new place should certainly satisfy all the requirements under the Forests Laws and the licensee or the transferee, as the case may be, should ensure compliance, of all the factors to be taken into consideration for establishment of a sawmill, at the same time, once license has already been granted to one X, and when the rules permit transfer of the same, then it is obligatory on the part of the licensing authority to apply the rules in consonance with the directions or decision of the Central Empowered Committee. Ultimately, the writ petition was allowed and the order was set aside and the matter was remanded to the Principal Chief Conservator of Forests for consideration of the entire materials afresh in the light of the discussion in the said judgment.

7.The learned Government Advocate appearing for the respondents is unable to point out any distinguishing feature by which this case cannot be disposed on the same lines as that of the decision rendered in the case of P.BHARATHI [cited supra].

8.In the light of the above, the writ petition is allowed and the impugned order passed by the 1st respondent dated 04.09.2014 is set aside and the matter is remanded to the 2nd respondent for considering the petitioner's application seeking permission to shift the saw mill to different location since it is stated that the license itself expires on 30.12.2015. The 2nd respondent is directed to consider the petitioner's application afresh and pass appropriate order on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

सत्यमेव जयते
-s/d-

Assistant Registrar

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Sub-Assistant Registrar

Sgl

To

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+1 cc to Special Government Pleader (Forest) sr.63371
+1 cc to M/s.Richardson wilson, Advocate sr.63291

W.P.No.22755 of 2015

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