

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.29718 of 2014

M/s. Kavitha Saw Mill
rep. by its Proprietor K.Mohanasundaram

Petitioner

Versus

1. The District Forest Officer,
District Forest Office,
Salem Division,
Hasthampatti,
Salem 636 007.
- 2.The Principal Chief Conservator of Forests
(Head of Forest Force)
Panagal Maaligai,
Saidapet, Chennai 600 015.

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari and Mandamus to call for the records of the 1st respondent made in his proceedings in Na.Ka.No.D/ 9114/2013 dated 4.11.2014 and quash the same and direct the 1st respondent to permit the petitioner to run its industry till the license issued under the Tamilnadu Regulation of Wood based Industries Rules 2010.

For Petitioner

: Mr. Silambanan, Senior Counsel
for M/s.Profexs Associates

For Respondents

: Mr.Abdul Saleem AGP

ORDER

By consent of the learned counsel on either side, the writ petition is taken up for final disposal. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the materials placed on record.

2. Petitioner in this writ petition seeks for issuance of a writ of Certiorarified mandamus to quash the order passed by the first respondent dated 04.11.2014 by which, the first respondent canceled the license granted to the petitioner under the provisions of the Tamil Nadu Regulation of Wood based Industries Rules, 2010. It is not in dispute that the petitioner has established a Saw Mill near Salem, during the year 1991 and he was carrying on the business for about 23 years and running the same without any complaints. The petitioner's Saw Mill was initially located at No.4/133, Periyakollapatti Road. The petitioner would state that the owner of the premises was accepting exorbitant rent and finally, he was compelled to shift the Saw Mill to S.No.97/10, Periyakollapatti Road, for which, the petitioner has to apply for licence to the first respondent, who is the licensing authority. The first respondent appears to have been satisfied by the petitioner's application and granted license on 12.11.2011 based on which, the petitioner was carrying on his business for about 2 1/2 years. The petitioner alleges that by the impugned order, his license was canceled, firstly, by stating that no approval was obtained by the first respondent from the second respondent before granting permission for shifting and the second reason is that the petitioner was advised to apply to the Central Empower Committee for change of the location of the Saw Mill. The counter filed by the first respondent seems to re-produce the stand taken in the impugned proceedings and there is no other fresh material.

3. Firstly, it is to be seen that the petitioner is required to apply for transfer of license before the licensing authority for the purpose of transfer of license or shifting of the Saw Mill. It is for the licensing authority to follow the procedure which has been stipulated under the Rules, pursuant to the directions issued by the Government or Chief Conservator of Forests. It appears that the first respondent, who accepted the application, did not follow the procedure, but granted the license to the petitioner on 12.11.2012 appreciating, shifting of Saw Mill. After a period of 2 1/2 years, the department has waked up and it is for the first respondent to approach the second respondent prior to approval of shifting of Saw Mill and secondly approval from the Central Conservator Committee. As regards the approval from the Central Conservator Committee is concerned, on perusal of the minutes of the said committee in its meeting held on 12.05.2011, it is seen that in terms of clause III of the minutes permission for transfer of license and shifting of Saw Mill may in individual case be granted on merit by the Principal Chief Conservator of Forest, Tamil Nadu, and thereafter, the appropriate authorities may issue formal orders for the same, as per the relevant Saw Mills Rules. Further, individual cases need not be referred to the CEC. Admittedly, the petitioner is an individual case and in terms of the minutes of CEC meeting held on 12.05.2011, there is no requirement to obtain CEC permission in

individual case. Further, this requirement is within the purview of the second respondent and the petitioner/applicant has nothing to do in this matter. As pointed out earlier the mistake lies with the concerned DFO, who had granted license in favour of the petitioner on 12.11.2011 therefore, it would be proper for the second respondent to take appropriate departmental action against the concerned DFO for not having followed the Rules and the instructions.

4. In the light of the above, the writ petition is allowed. The impugned order is set aside and the petitioner is directed to file an application to the second respondent through the first respondent requesting for approval of the change of location of Saw Mill to S.No. 97/10, Periyakollapatti Road. In turn, the first respondent is directed to forward the application to the second respondent with due remarks within a period of two weeks from the date of receipt of copy of this order and thereafter, the second respondent shall consider the same on merits and pass appropriate orders within a period of three weeks thereafter. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/
Sub Asst. Registrar

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To

1. The District Forest Officer,
District Forest Office,
Salem Division,
Hasthampatti, Salem 636 007.

2.The Principal Chief Conservator of Forests
(Head of Forest Force)
Panagal Maaligai, Saidapet, Chennai 600 015.

1 cc to M/s. Profex Associates, Advocate, sr. 22263
1 cc to Special Government Pleader (Forest), sr. 22401

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