

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7738 of 2011

M/S Vishwakarma Saw Mill, Proprietor Ram Bilas Thakur Son of Late Mussai Thakur, Resident of Village and P.O. Manigachhi District Darbhanga
..... Petitioner

Versus

1. The State of Bihar through Secretary, Forest & Environment Department, Government of Bihar, Patna.
2. The Saw Mill Selection Committee through its Chairman, Darbhanga Division, Darbhanga.
3. The Chairman cum Commissioner, Saw Mill Selection Committee, Darbhanga Division, Darbhanga.
4. The Member cum Conservator of Forest, Saw Mill Selection Committee, Muzaffarpur Circle, Muzaffarpur.
5. The Member Secretary cum Divisional Forest Officer, Saw Mill Selection Committee, Mithila Forest Division, Darbhanga.

..... Respondents

Appearance:

For the Petitioner : Mr. Manindra Nath Tiwari,
Mr. Shekhar Singh, Advocates
For the Respondents : Mr. U.S.S. Singh, GP 19
Dr. Shobha Choubey, AC to GP 19

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-08-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for including the Saw Mill of the petitioner in the list prepared by the Saw Mill Selection Committee, Mithila Forest Division, Darbhanga in its meeting held on 04.02.2011 in which petitioner's Saw Mill has not been included.

3. The brief facts of the case, according to the petitioner, are that a licence was granted to it on 28.06.1994 which was being renewed from time to time. On 25.07.2000 an application was filed for shifting

the Saw Mill from Bahera (Benipur) to village Raje (Manigachhi) and thereafter the petitioner's licences were renewed on the basis of the changed address. Copies of the licences dated 29.06.2001 for the years 2001 and onwards have been enclosed as Annexure-R/1 series to the petitioner's supplementary rejoinder.

4. Learned counsel for the petitioner submits that the respondents had duly accepted the petitioner's aforesaid application dated 25.07.2000 for shifting the Saw Mill, which is evident from the very fact that subsequent renewals of the license were made thereafter showing the new address at Manigachhi. In any event, it is submitted that once the petitioner's name appeared in the provisional seniority list dated 13.09.2010 (Annexure-3), removal of its name from the final seniority list dated 04.02.2011, at the very least, required a show cause notice and the petitioner ought to have been heard prior to deletion of its name.

5. Learned counsel for the respondents, on the other hand, submits that the change of address of the petitioner was not bona fide. The application for change of address was a forged and fabricated document which was never received in the office of the respondents. Moreover, the licence for the year 1999 contained manipulation in the address by substituting the "Manigachhi" address in place of the "Bahera" address, and it was on this basis that renewals of licence were made for the subsequent years.

6. Having heard the parties and on consideration of the



materials available on record, this Court is of the view that the claim of the petitioner for inclusion in the final seniority list hinges upon the contention that an application for change of address had been filed by it and accepted by the respondents. This would necessitate adjudication on disputed questions of facts which this Court is not inclined to enter into in its extraordinary writ jurisdiction. However, this Court finds merit in the petitioner's submission on the plea of violation of Natural Justice. If the petitioner's name admittedly appeared at serial no. 16 of the provisional seniority list dated 13.09.2010, then the petitioner ought to have been issued a show cause notice and granted an opportunity of being heard prior to removal of its name in the final seniority list dated 04.02.2011. Failure in this regard has resulted in prejudice to the petitioner without even affording any opportunity of being heard in the matter.

7. In the circumstances, therefore, the petitioner is granted liberty to approach the Member Secretary-cum-Divisional Forest Officer, Saw Mill Selection Committee, Mithila Forest Division, Darbhanga (respondent no. 5) with a fresh representation with respect to its grievances within a period of two weeks from today. If any such representation is filed within the stipulated period, the same shall be considered and disposed of in accordance with law by the respondent no. 5 by a speaking order and after grant of an opportunity of hearing to the petitioner.

8. It is made clear that this Court has not expressed any

opinion on the merits of the claim of the petitioner.

9. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

B.T. /Chandran

AFR/NAFR	NAFR
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