

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7684 of 2011

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Kamal Kishore Kumar, son of Sri Horil Sahani, resident of Mohalla Agarwa, P.S. Motihari Town, Dist. East Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Chief Conservator of Forest, Department of Forest and Environment, Government of Bihar, Patna.
4. The Chief Conservator of Forest, Siwan Circle, Gandak Colony, C-1, Srinagar, Siwan.
5. The Regional Chief Conservator of Forest, Arya Vihar, Sherpur, Post MIC Bela, Muzaffarpur.
6. The Divisional Forest Officer, Motihari Forest Division, Motihari.
7. The Deputy Secretary, Department of Environment and Forest, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha-3, Adv.

For the Respondent/s : Mr. Dev Kumar Pandey, AC to GP-6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-04-2016

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

2. I.A. No. 2077 of 2016 has been filed for amendment of the writ petition by incorporating the following prayer therein :-

"To quash the letter no. 1160 dated 13.05.2011 (Annexure-A series to the counter affidavit), issued under the signature of Sri Basir Ahmad Khan, the Principal Chief Conservator of Forest, Bihar, Patna, whereby and whereunder after considering the enquiry report dated 11.03.2011 submitted by respondent no. 5, he has approved the decision of respondent no. 5

contained in Annexure-5 by which he had cancelled the auction held on 20.10.2010.”

3. Having regard to the nature of the prayer, petitioner is permitted to make appropriate amendment in the writ petition. I.A. No. 2077 of 2016 stands allowed.

4. The petitioner is aggrieved by the action of the respondents in directing for re-tender for sale of dry standing trees pursuant to cancellation of the earlier tender finalized on 20.10.2010 which had ensued in favour of the petitioner and other successful bidders.

5. It appears that pursuant to a tender notice dated 28.07.2010 for sale of dry standing trees, the petitioner participated and was declared successful for two lots i.e. lot nos. 4 and 6. The tender was however subsequently cancelled in terms of the letter dated 15.12.2010 (Annexure-5) issued by the Regional Chief Conservator of Forests, Muzaffarpur. The same was made subject matter of challenge in a writ petition in C.W.J.C. No. 3482 of 2011 which was disposed of on 01.03.2011 in view of the subsequent development in terms of letter dated 22.02.2011 (Annexure-10) issued by the Principal Chief Conservator of Forests, Bihar, Patna by which the aforesaid letter dated 22.2.2011 was stayed. While disposing of the matter, this Court observed as follows:

“ Needless to state that the petitioner shall have his remedies afresh in accordance with law, should circumstances so warrant as any fresh final decision in pursuance of the order dated 22.02.2011 shall

undoubtedly be a fresh cause of action.

Considering that the matter relates to revenue of the State, the Court expects that the officials shall act in the best revenue interest of the State to take a final decision at the earliest without any unnecessary delay."

6. Pursuant to the aforesaid order of this Court, matters moved forward and culminated in a fresh report of the Regional Chief Conservator of Forests, Muzaffarpur in terms of his letter no. 344 dated 11.03.2011, which was approved by the Principal Chief Conservator of Forests, Bihar, Patna by his letter no. 1150 dated 13.05.2011 (Annexure-A series to the counter affidavit). In sum and substance, the Regional Chief Conservator of Forests, Muzaffarpur in his aforesaid report dated 11.03.2011 narrated a number of irregularities in the earlier tender and thus recommended for its cancellation. The Principal Chief Conservator of Forests, Bihar, Patna by his letter dated 13.05.2011 approved such recommendation for cancellation of the tender held on 20.10.2010 and for proceeding with the fresh tender.

7. This Court is of the view that the observations of this Court in C.W.J.C. No. 3482 of 2011 had visualized that the petitioner would be able to avail his remedies afresh as and when a fresh final decision in pursuance of the earlier letter dated 22.02.2011 of the Principal Chief Conservator of Forests, Bihar, Patna (Annexure-10) would be taken. In the instant case, it is apparent that the matter has moved forward and a report has been submitted by the Regional Chief Conservator of

Forests, Muzaffarpur dated 11.03.2011. While approving the same however the Principal Chief Conservator of Forests, Bihar, Patna has taken a final decision unilaterally. The petitioner has had no occasion to be heard in the matter either before the Regional Chief Conservator of Forests, Muzaffarpur or before the Principal Chief Conservator of Forests, Bihar, Patna during the enquiry nor before the final decision was taken cancelling the tender dated 20.10.2010.

8. In the above view of the matter, the impugned letter no. 1160 dated 13.05.2011 issued by the Principal Chief Conservator of Forests, Bihar, Patna (respondent no. 3) (part of Annexure-A series of the counter affidavit) is hereby set aside with a direction to pass orders afresh in accordance with law upon a consideration of the materials on record and after grant of opportunity to the petitioner of being heard in the matter with regard to the report of the Regional Chief Conservator of Forests, Muzaffarpur dated 11.03.2011.

9. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.04.2016
Transmission Date	