

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14038 of 2013

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Rajendra Prasad Singh son of Late Gorakhnath Singh Resident of Village -
Amarpur Matwaria, P.O. Dhawar, Dist - Bhojpur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Forest and Environment,
Patna
2. The Divisional Commissioner, Patna Bihar
3. The Principal Chief Conservator of Forest, Patna, Bihar
4. The Conservator of Forest, Nehru Nagar, Patliputra, Patna
5. The Divisional Forest Officer, Ara, Bhojpur
6. The Assistant Conservator of Forest Ara, Bhojpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha
For the Respondent/s : AC to SC 25

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL JUDGMENT
Date: 12-01-2016

Heard Sri Rajendra Nath Sinha, learned counsel for the
petitioner and learned A.C. to Standing Counsel – 25.

2. Despite grant of several adjournments, no counter
affidavit in this case has been filed. Accordingly, in absence of
counter affidavit, the Court heard the matter.

3. The present writ petition has been filed with a prayer to
quash an order dated 15-03-2013 passed in Appeal Case No. 1 of
2013 by the Conservator of Forest/Respondent no. 4, whereby, the
appeal preferred by the petitioner was rejected and the learned
appellate authority has affirmed the communication of the licensing
authority.



4. Short fact of the case is that the petitioner was initially granted licence for running a saw mill, vide Licence No. 111 of 1996. The saw mill was established in village Amarpur Bakharia, post Dhamar P.S. Arrah Mufassil. A plea was taken by learned counsel for the petitioner that subsequently due to some family arrangement, the petitioner filed an application for shifting the saw mill to a different place. It was admitted by learned counsel for the petitioner that no written permission was granted, however; on oral permission, the saw mill was shifted to a different place. Subsequently, a final list was prepared, in which, name of petitioner's saw mill was not included. Earlier the petitioner had approached this Court by filing a writ petition, vide C.W.J.C. No. 21133 of 2012, which was disposed of granting liberty to the petitioner to file an appeal before the appellate authority i.e. Conservator of Forest and the appellate authority, was directed to decide the appeal within specified time. Thereafter, the petitioner filed an appeal, vide Appeal Case No. 1 of 2013, which has finally been rejected on 15-03-2013 and the same has been assailed in the present writ petition.

5. Learned counsel for the petitioner submits that the petitioner after shifting of the saw mill on oral permission had deposited a Bank Draft for renewal and thereafter, the petitioner continued with the same. He further argued that in the provisional list

of the saw mill, which was prepared by the State Government, name of petitioner's saw mill appeared, however; subsequently in the final list, it was not included, thereafter, the petitioner was aggrieved.

6. On perusal of the materials on record, particularly; impugned order, it is evident that saw mill licence in favour of the petitioner was granted in the year 1996, which was renewed up-to the year 2000. However, admittedly without any written permission, the saw mill was shifted from the place, for which, licence was granted. Under the provisions of Bihar Saw Mills (Regulation) Rules, 1993, particularly Rule 4 (2) (g) such shifting is not permissible. At this juncture, it would be appropriate to quote Rule 4 (2) (g), which is as follows:

“The expansion of the saw mill or saw pit or change in its location shall not be carried out without the written permission of the licensing officer.”

In the present case, it is not in dispute that there is no written permission for shifting the same.

7. Learned counsel for the petitioner has placed reliance on **Annexure – 3** to the writ petition i.e. a communication made by the Principal Chief Conservator of Forest and submits that as per such instruction, if an application for transferring the saw mill is filed and within thirty days no decision is taken, it will be deemed that permission is granted.

8. On perusal of Annexure 3, the Court is satisfied that the submission of learned counsel for the petitioner is misconceived. Moreover, if there is specific provision in the Act for obtaining written permission, certainly by executive instruction, the statutory provision cannot be frustrated. The record also does not show that after shifting, any order for renewal of licence was passed. On perusal of the order impugned, the Court is satisfied that there is no illegality.

9. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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