

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2950 of 2014

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Kamran Rahmani, son of Late Habib Mustafa Rahmani Proprietor Habib Saw Mill,
resident of Village- Damodarpur, P.S.- Kanti, P.O.- Damodarpur, District-
Muzaffarpur.

.... Petitioner.

Versus

1. The State of Bihar through the Principal Chief Conservator of Forest, Bihar, Patna
2. Directorate of Industries, Government of Bihar, Patna
3. The Conservator Forests, Muzaffarpur Circle, Muzaffarpur
4. The Divisional Forest Officer-cum-Authorised Officer, Tirhut Forest Division, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar
Mr. Alok Kumar

For the Respondent/s : Mr. Rajesh Kumar Sinha, AC to GP-25

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 13-04-2016

Heard learned counsel for the petitioner and learned A.C.

to Govt. Pleader – 25.

2. The petitioner has invoked the writ jurisdiction under Article 226 of the Constitution of the India, with a prayer to quash an order dated 08-04-2013 passed in Appeal No. 54 of 2002 by respondent no. 3/Conservator of Forest, Muzaffarpur Circle, Muzaffarpur (hereinafter referred to as the ‘Conservator of Forest’) whereby he has confirmed the order of the Licensing Authority i.e. Divisional Forest Officer-cum-Authorised Officer, Tirhut Forest Division, Muzaffarpur/respondent no. 4 dated 06-12-2001.



3. It has been pleaded that father of the petitioner had established a saw mill some time in the year 1963 and since then, he was continuing with the saw mill. However, in the meanwhile, in the year 1990, the Government of Bihar came out with an Act i.e. Bihar Saw Mills (Regulation) Act, 1990 and thereafter, Rule was also framed, vide Bihar Saw Mills Rules, 1993. It has been claimed that after the enactment of aforesaid Act, the father of the petitioner applied for licence, which was granted.

4. According to learned counsel for the petitioner, the father of the petitioner had applied for renewal of licence, which was renewed till 1996 and thereafter, despite the fact that father of the petitioner was regularly filing petition for renewal with requisite fee, same was not done and finally, by order dated 06-12-2001, the Divisional Forest Officer, vide **Annexure – 5** to the writ petition, cancelled the licence of the saw mill, which was in the name of father of the petitioner. The father of the petitioner, thereafter filed an appeal before the Appellate Authority-cum-Conservator of forest, which was registered as Appeal No. 54 of 2002, which too stood dismissed finally on 08-04-2013. Only thereafter, the petitioner has approached this Court by filing the present writ petition.

5. It was submitted by learned counsel for the petitioner that order of the Licensing Authority was contrary to the provision, as



contained in proviso to Section 7(5) of the Bihar Saw Mills (Regulation) Act, 1990. He submits that there is statutory provision that before taking step for cancelling any licence, show cause notice is required to be given. He tried to persuade the Court that without any show cause notice the impugned order was passed. Accordingly, the order of the Licensing Authority was non-est, which was required to be set aside by the Appellate Authority, however; the Appellate Authority too, without considering the same, has rejected the appeal and as such, a prayer has been made for quashing of both the orders.

6. The petitioner has also claimed for including the saw mill in the panel of saw mills, which has been prepared by the Government of Bihar.

7. Learned Stated counsel has opposed the prayer of the petitioner. He submits that the saw mill licence was in the name of Habib Mustafa Rahmani, regarding whom, the petitioner claims that he is son of the licensee. He submits that there is no indication regarding the fact as to how the petitioner has filed the present writ petition. Only fact has been mentioned that father of the petitioner is already died. He further submits that ofcourse in the order of the Licensing Authority, no detail reason has been assigned, but fact remains that before cancelling the licence, on number of occasions notices were issued, which fact has been noticed by the Appellate

Authority in its order dated 08-04-2013 i.e. **Annexure – 8** to the writ petition. It has further been argued that panel of saw mills has been prepared by the Government, in view of direction issued by the Apex Court in the year 2010.

8. Besides hearing learned counsel for the parties, I have also perused the material available on record. In the writ petition, there is no averment as to under what circumstances, the petitioner, claiming to be son of the licensee, has approached this Court. The petitioner has not bothered to mention the date of death of the licensee. There is nothing on record to suggest as to whether the petitioner is only legal heir of the licensee or not. In such vague writ petition, it would be difficult to pass any positive order. Moreover, the claim of the petitioner that the Licensing Authority has passed order in contravention of provision contained in proviso to Section 7(5) of the Bihar Saw Mills (Regulation) Act, 1990 is concerned, it is true that in the order of the Licensing Authority, no such detail has been mentioned, but on perusal of the order of the Appellate Authority, it is evident that the licensee was noticed repeatedly. As per the provision, renewal application was required to be filed by the month of November for proceeding year, however; on perusal of the order, it is evident that for renewal of licence, renewal fees were deposited much after the prescribed period. Meaning thereby that after 1996, the

licence of saw mill was never renewed. In the order of the Appellate Authority at running page 38, number of dates have been mentioned with memo number to show that the Licensing Authority had issued notice to the licensee and only thereafter, the licence was cancelled.

9. On perusal of the order of the Appellate Authority, the Court is satisfied that there is no ground for interference. Moreover, the locus of petitioner is also under question. I do not find any ground to entertain the petition.

10. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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