

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16316 of 2012

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Yogeshwar Mahto S/O Jugal Mahto R/O Village-Paroo, P.O. Paroo, District-
Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. The Prescribed Authority-cum-Conservator of Forests P.S.- Maniyari,
Muzaffarpur Circle, Muzaffarpur
3. The Assistant Conservator of Forests, P.S.- Maniyari, District- Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mani Bhushan Kumar

For the Respondent/s : AC to SC 17

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 08-01-2016

Heard Sri Mani Bhushan Kumar, learned counsel for the
petitioner and learned A.C. to Standing Counsel – 17.

The petitioner, invoking writ jurisdiction of this Court
under Article 226 of the Constitution of India, has prayed for
quashing of an order dated 13-08-2012 passed by the respondent no.
2/Prescribed Authority-cum-Conservator of Forest, Muzaffarpur in
Appeal No. 52 of 2002. By the said order, the appeal, preferred by
the petitioner for setting aside the order of the Divisional Forest
Officer cancelling the saw mill licence, was rejected.

Learned counsel for the petitioner has argued that the
licensing authority i.e. Divisional Forest Officer before cancelling the
licence has not at all issued an opportunity for hearing to the



petitioner and without issuing any detailed reason, his licence has been cancelled. It has been reiterated on number of occasions that before cancelling the licence adequate opportunity of hearing is required to be given, which has not been done. It is contrary to the provision, as contained in Section 16(3) of the Bihar Saw Mills Act, 1990. He has also placed reliance on a Division Bench judgment of this Court dated 07-07-2015 in L.P.A. No. 1216 of 2015.

Learned State counsel has opposed the prayer of the petitioner.

Besides hearing learned counsel for the parties, I have also perused the materials available on record, particularly; order dated 13-08-2012 passed by the Conservator of Forest in Appeal No. 52 of 2002, which assigns detailed reason. On perusal of the record, it is evident that in the year 1996, the petitioner, on application for grant of licence, was granted licence of saw mill, which was admittedly for one calendar year i.e. for the year 1996 itself. Nothing has been brought on record to show that the petitioner ever before expiry of the period of licence applied for renewal of the same, whereas in terms of the provisions, thirty days prior to expiry of the licence, it was mandatorily required to file an application with requisite fee for renewal of the licence, which was never done by the petitioner. The petitioner without renewal of licence was continuing with the saw



mill. Finally, in 2001, the licensing authority informed the petitioner regarding cancellation of the licence and also it was intimated that if the petitioner found to be in operation of the saw mill, legal action shall be taken against him. This communication was made vide letter dated 06-12-2001, which has been brought on record as **Annexure – 3** to the supplementary affidavit. Thereafter, the petitioner filed an appeal before the Prescribed Authority-cum-Conservator of Forest, vide Appeal No. 52 of 2002.

On examining the order dated 13-08-2012 passed by the appellate authority, it appears that even after filing of the appeal, no proper step was taken up-to 2005. However, finally after granting adequate opportunity to the parties, the prescribed authority has rejected the appeal, which has been annexed as **Annexure - 1** to the writ petition. Under the provisions of the Bihar Saw Mills (Regulation) Act, 1990 and Bihar Saw Mills Rules, 1993, the licence of saw mill is to be granted for one calendar year with specific stipulation for taking steps for renewal of the licence thirty days prior to the date of expiry of the licence. Admittedly, in the present case, no such application was filed before expiry of the period of licence and it continued for several years. Only thereafter, in the month of December, 2001, the order was issued by the Licensing Authority – cum-Divisional Forest Officer intimating the petitioner regarding



cancellation of the licence, with further direction not to pursue with his saw mill. It further appears that after cancellation of the licence on a raid conducted in the saw mill of the petitioner, *seisum* woods were found, which were contrary to the provision and as such, the seizure order was passed. On perusal of the record, it appears that the petitioner has taken a plea that due to ailment, he could not pursue the authority for renewal of the licence. In support of his claim regarding his ailment, he has also produced a medical certificate. The date of medical certificate also shows that prior to the expiry of the licence, there was no such ailment. No explanation to this was given before the authority concerned. Thereafter, the learned appellate authority by a detailed reason discussing each and every point has dismissed the appeal of the petitioner. On perusal of both the orders i.e. order of the licensing authority as well as appellate authority, the Court is satisfied that no illegality has been committed. In the counter affidavit also, a stand was taken that before cancelling the licence, the petitioner was repeatedly noticed. Such fact has been stated in paragraph 16 of the counter affidavit. Ofcourse, no rejoinder to the counter affidavit has been filed, but at the time of hearing, orally it was argued by learned counsel for the petitioner that no notice was issued, which was not reflected in the order of the licensing authority.

Be that as it may, since specific stand has been taken in

the counter affidavit regarding issuance of repeated notice, which has not been denied by filing a rejoinder, on oral submission of learned counsel for the petitioner, the same may not be disputed.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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