

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 7411 OF 2012

Kantilal s/o Shantilal Gujrani

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. D.P. Pawar, advocate for petitioner.

Mr. S.S. Dande, AGP for the State.

Mr. A.N. Gaddime, advocate for respondents 1 to 5.

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CORAM : R.M. BORDE &

A.I.S. CHEEMA, JJ.

DATE : 7th JANUARY, 2016.

PER COURT :

1. Petitioner is praying for issuance of directions to respondents to issue licence to the saw mill of the petitioner which he claims was in existence prior to 1981. Petitioner also claims directions against respondents 1 to 4 to take steps for grant of permission in favour of petitioner to operate the saw mill in view of Government Resolution dated 10.05.2010 and in accordance with the policy formulated by the State Government which was in existence prior to 1981.

2. Petitioner claims that his father had purchased the machinery in the year 1979 for running saw mill and was operating the same. In the year 2001, the Village Panchayat issued no objection certificate to run the saw mill in favour of the petitioner. It is further stated that in the year 2005, respondents 4 and 5 have collected fine amount from father of the petitioner

but no steps were taken for granting permission to operate the saw mill. On demise of father of the petitioner, his legal heir i.e. petitioner, is pursuing the authorities to grant licence. On 10.08.2011, petitioner made fresh representation to respondents requesting them to accord permission to operate the saw mill which, he claims was in existence prior to 1981.

3. An affidavit-in-reply has been presented on behalf of respondents 1 to 5 wherein it has been stated that petitioner had earlier presented petition bearing Writ Petition No. 6198/2011 and, after hearing the petitioner at length, the Division Bench of this Court was pleased to dismiss said petition. We have perused the order passed by the Division Bench on 26.08.2011 wherein it has been observed that in view of judgment of Apex court in case of T.N. Godavarman Thirumulkpad v. Union of India AIR 1997 SC 1228, no case for grant of any relief is made out and as such, the petition came to be rejected. Petitioner proceeded to present second petition in respect of the same subject matter being Writ Petition no. 1956/2012. The same was also dismissed on 21.06.2012 by the Division Bench of this Court for want of prosecution. Although both the petitions are presented by the same counsel who has presented the instant petition, there is surprisingly no reference to the presentation of aforesaid two petitions and the factum of dismissal of these petitions in the memorandum of the instant petition. Petitioner has suppressed the fact of presentation of earlier petitions and dismissal thereof. Apart from this, it has been specifically denied by respondents that father of petitioner had not obtained licence to run the saw mill and did not tender application for licence prior to 1981. It

is thus contended that as per the rules and regulations and the decision of the Supreme Court, neither the father of petitioner nor petitioner have any legal entitlement to claim the licence. It is specifically denied that father of petitioner had carried out business of saw mill since 25.05.1979.

4. In view of the reply tendered on behalf of respondents and in view of dismissal of earlier two writ petitions bearing nos. 6198/2011 and 1956/2012, instant petition does not deserve to be entertained. Petitioner is guilty of suppression of material facts from the Court and has approached the Court time and again for the same relief. In view of these facts, while directing dismissal of the petition, we direct petitioner to pay cost of Rs.1,00,000/-.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

dyb