

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.431 of 2016
IN
Civil Writ Jurisdiction Case No. 16316 of 2012**

=====

Yugeshwar Mahto, Son of Jugal Mahto, Resident of Village Paroo, P.O. Paroo,
District Muzaffarpur.

.... Appellant/s

Versus

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

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Mani Bhushan Kumar, Advocate
For the Respondent/s : Mr. Rohit Mishra, Advocate
Mr. Nagendra Pd. Yadav, SC-23

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 21-03-2017

Seeking exception to an order dated 8.1.2016 passed
by the learned Writ Court in C.W.J.C. No.16316 of 2012, this appeal
has been filed under Clause 10 of the Letters Patent.

2. Petitioner was awarded a licence in the year 1996
for running a saw mill. The licence was valid for a period of one
year and as per the provisions of the Bihar Saw Mill Regulation Act,
1990 and the Bihar Saw Mill Rules, 1993, the licence is granted for
a period of one year, and thirty days prior to expiry of the licence,
the licensee is required to take steps for renewal of the licence. In



the present case, it is seen that after grant of licence to the petitioner in the year 1996, petitioner did not take any steps for renewal of the same. No renewal was ordered either and when the action was taken for stopping the operation of the saw mill, the matter traveled in appeal to the statutory appellate authority who dismissed the appeal on 13.8.2012 and thereafter the matter came to this Court and a learned Single Bench of this Court dismissed the writ petition finding that the licence granted to the petitioner was not renewed after its expiry in 1997 and, therefore, merely on account of the fact that before stopping the operations of the saw mill no opportunity of hearing was given to the petitioner, it will not make any difference as the licence granted to the petitioner lapsed in the year 1997.

3. Before us also, the solitary ground raised was that before stopping the operation of the saw mill, no opportunity of hearing was given and, thus, the principles of natural justice have been violated. In support of the aforesaid contention, a judgment by a co-ordinate Bench of this Court in L.P.A. No.1216 of 2016, decided on 7.7.2015 has been brought to our notice wherein it is stated that if the operations of the saw mill is stopped without granting opportunity of hearing, the same is illegal. We are conscious of the fact that any action taken adverse to a person without hearing him is unsustainable and illegal and on that count



alone, the impugned may be quashed, but there are exceptions to this Rule also depending on the facts and circumstances of each case.

4. It is a well settled principle of law that following the principles of natural justice is not required if the grant of opportunity is an empty formality.

5. In the present case, we find that learned Writ Court has taken note of various aspects of the matter and has recorded a finding that after lapse of the licence in the year 1997 the petitioner did not make any application for its renewal as required under the Statutory Rules within 30 days. There was no renewal of the licence and the petitioner continued to run the saw mill even without renewal of the licence. Taking note of various aspects of the matter, the learned Writ Court has found that once the licence issued under the statutory provisions has lapsed and there is no renewal of the same, merely because before stopping the operation of the saw mill petitioner was not heard, it will not make any difference as the petitioner is unable to demonstrate that under law he is authorized to run the saw mill in the absence of valid licence and non-grant of opportunity of hearing would not make any difference. No *mandamus* can be issued to permit the operation of the saw mill by the petitioner until and unless statutory rules and requirements are found to have been followed. In this case, even if the matter is



remanded back, it will be an empty formality inasmuch as the petitioner is unable to demonstrate that he is liable to be granted renewal of the licence now in accordance with the requirement of law and, therefore, merely because the opportunity of hearing is not granted to him, we see no reason to interfere into the matter. The judgment in L.P.A. No.1216 of 2015 (supra), relied upon by the learned counsel is entirely different on factual aspects of the matter and, therefore, same will not be applicable in the present case.

6. Accordingly, in the facts and circumstances of the present case, finding no error in the impugned judgment warranting re-consideration in the present matter, the appeal is dismissed.

7. In view of any subsequent decision of the State Government, if petitioner is entitled to seek renewal or restoration of the licence to run the saw mill, liberty shall be available to the petitioner to approach the State Government in this regard.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.03.2017
Transmission Date	N/A

