

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.724 of 2014

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Shambhu Singh @ Shambhu Kumar, Son of Late Shadadeo Singh, Address: M/S
Shambhu Timber, Ramana, Pitamaheshwer Road, District: Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, State of Bihar, Patna.
2. The Secretary, Forest Department, State of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The Chief Conservator of Forest, Bihar, Patna.
5. The Conservator of Forest, Gaya Circle, Gaya, Bihar.
6. The Gaya District Saw Mill License Committee.
7. The Divisional Forest Officer, Gaya, District- Gaya, Bihar.
8. The Forest Range Officer, Gaya, District- Gaya, Bihar.
9. Bhuneshwar Mistri, resident of village - Nimi, Post - Nimi, Fatehpur, District -
Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Dharendra Pratap Singh, Adv.

For the Respondent/s : Mr. Gyan Shankar, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-10-2017

Heard the parties.

The petitioner is aggrieved by the order dated 27.8.2013 passed by the Appellate Authority –cum- Conservator of Forest, Gaya Circle, Gaya, whereby the Saw Mill Appeal of the petitioner bearing No.2 of 2012 has been dismissed and the order dated 22.5.2012 passed by the Licensing Authority –cum- District Forest Officer, Gaya, the respondent no.7 has been upheld. Copies of the orders passed by the Appellate Authority and the Licensing Authority are impugned at Annexure 1 to the writ petition.

The facts on record would show that originally an



application was filed by one Bhuneshwar Mistry for grant of licence for running the saw mill under the Bihar Saw Mill (Regulation) Act, 1990 and the 'Rules' framed thereunder in 1994 and was renewed in 1997. It is alleged that in 1999 he transferred the ownership of the saw mill in favour of the petitioner. The order also shows that no licence was in fact issued, but since 1999, renewal was being issued in favour of the petitioner. When it transpired to the authority that no licence had yet been issued in favour of the licensee and yet renewal order was being issued in favour of the petitioner that the proceeding in question was initiated and when both the parties appeared before the Licensing Authority and were heard.

It is taking note of the peculiar circumstances where the applicant was one Bhuneshwar Mistry and even though no licence was issued in his favour, by simple transfer of the saw mill that the petitioner managed to obtain renewal of the licence until 2007 even though no application of the petitioner for grant of licence was on record, that the Licensing Authority has passed the impugned order refusing to renew the licence with a rider that in case the applicant Bhuneshwar Mistri would be inclined for grant of licence, he may take recourse to appropriate remedy but in so far as the petitioner is concerned since he was not the applicant for the licence, the renewal granted in his favour was held not in accordance with law.



Although the petitioner does mention at paragraph 18 of the writ petition that he applied for licence after purchase of saw mill from Bhuneshwar Mistri but the order impugned refuses to acknowledge any such receipt.

In the disputed nature of facts where the original applicant is stated to be one Bhuneshwar Mistri and though no licence was issued to him but the petitioner who claims purchase of Saw Mill from him has become the beneficiary of the application made by the original applicant by obtaining renewal since 1999 up to 2007, no enforceable right does accrue to the petitioner to maintain the writ petition, which is accordingly dismissed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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