

THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14181 of 2012

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M/S Jai Bharat Saw Mill, Bahadurpur, P.S. Samastipur, District -
Samastipur, a Proprietorship Firm through its proprietor Bipin Kumar
Sharma Son of Late Yogendra Thakur resident of Bahadurpur, P.S.
Samastipur, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar , through the Principal Secretary, Department of
Environment and Forest, Government Of Bihar
2. The Conservator of Forest-Cum-Appellate Authority, Muzaffarpur
Circle, Muzaffarpur
3. The Divisional Forest Officer, Begusarai Forest Division, Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry

For the Respondent/s : Mr. V.M.K Sinha AAG-13

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

4 02-03-2017 Heard learned counsel for the petitioner and
learned counsel for the State.

By way of filing the present application, the
petitioner seeks the following reliefs:-

“ (i) For issuance of writ in the nature of
certiorari for quashing the order dated 12.01.2012



bearing Memo No. 194 dated 12.01.2012 (Annexure-4) passed by the Divisional Forest Officer-cum-Licensing Officer, Begusarai Forest Division, Begusarai whereby the application dated 19.08.2011 for release of confiscated materials and the equipments of Saw Mills has been rejected as the said order is contrary to the order dated 08.08.2011 (Annexure-2) passed by the Hon'ble Court in C.W.J.C. No. 10893 of 2011.

(ii) For issuance of a writ in the nature of Mandamus directing the respondents to release the confiscated materials and equipments of Saw Mill in favour of the petitioner in terms of the order dated 30.12.2010 (Annexure-1) passed by the respondent no. 2 in Appeal No. 4 of 2010 as the order of appellate authority has not yet been varied, modified or set aside by the Court.”

Learned counsel for the petitioner submits that the matter reached finality as there was clear cut specific direction issued by the Conservator of Forest Officer vide Annexure-1 to release the confiscated materials and equipments of Saw Materials



which was confiscated by the Forest Officer, yet the said order was not complied with and the petitioner has come to this Court for further direction.

This Court, while passing the order in C.W.J.C. No. 10893 of 2011 vide order dated 08.08.2011, had directed the petitioner to once again represent before the Divisional Forest Officer, Begusarai for release of the confiscated goods in view of the order dated 30.12.2010 passed by the Conservator of Forest-cum-Appellate Authority, Muzuffarpur in Appeal Case No. 4 of 2010. However, the Divisional Forest Officer, Begusarai, ignoring the main contention of the petitioner, has passed orders dealing with the issue of renewal of license of the petitioner in accordance with the direction passed by this Court in another writ application. However, he has altogether overlooked the issue regarding release of the confiscated goods. He further submits that the matter regarding release of confiscated goods having reached finality, the Divisional Forest Officer could not override the directions issued by the Conservator of Forest and, therefore, the order passed is wholly illegal and arbitrary and fit to be set aside.

A counter affidavit has been filed by the respondents no. 1 to 3 in which it has been contended that the petitioner's Saw Mill failed to qualify in the selection list



published by the Chairman vide its order dated 18.05.2011 and for that reasons alone, the case for release of the confiscated goods has not been considered and, as such, the impugned order dated 12.01.2012 has been passed vide memo No. 194 of 2012. Thus, the present writ application is wholly misconceived and the petitioner is not entitled to any relief under Article 226 of the Constitution of India.

Having heard learned counsel for the petitioner and learned counsel for the State and also after considering all the contentions raised by them, it appears that in the impugned order, the Divisional Forest Officer-cum-Licensing Authority has not addressed himself to the main issue involved in the representation filed by the petitioner. The order of release of the confiscated goods, having attained finality in Appeal No. 4 of 2010 vide order dated 30.12.2010, there is no occasion on the Divisional Forest Officer to reject the case of the petitioner without assigning any cogent reasons.

Under such circumstances, it is evident that the order dated 12.01.2012 passed by Divisional Forest Officer-cum-Licensing Officer, Begusarai Forest Division, Begusarai is wholly illegal, without any rationale and is fit to be set aside. The impugned order, as contained in Annexure-4, issued vide memo



No. 194 dated 12.01.2012 is quashed.

Accordingly, the writ application is allowed

However, there shall be no order as to costs.

(Anjana Mishra, J)

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