



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.06.2017

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.A(MD)No.580 of 2017
and
C.M.P. (MD)No.4815 of 2017

R.Venkatasalam : Appellant / Petitioner

Vs.

- 1.The Member Secretary,
The Central Empowered Committee,
Gate No.31,
Jawaharlal Nehru Stadium,
Lodhi Road, New Delhi-110 003.
 - 2.The District Collector,
Collectorate,
Theni District.
 - 3.The District Forest Officer,
Office of the District Forest Officer,
Theni Division,
Theni, Theni District.
 - 4.The Assistant Executive Engineer,
Distribution/Metro,
TANGEDCO,
Chinnamanur,
Theni District
- ... Respondents/Respondents

Prayer:This Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD)No.6952 of 2017, dated 18.04.2017.

Prayer in WP(MD). 6952/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus direction directing the respondents 1 and 3 to grant license for the petitioners Saw Mill namely Pandian Timbers Venkatasalam Sawmill situated at 321/C, Main Road, Chinnamanur, Theni District as per the Rule 4(2) of the Tamil Nadu Regulation of Wood Based Industries Rules, 2010 within the time stipulated by this Honble Court.



WEB COPY

For Appellant : Mr.T.Lajapathi Roy

For Respondents : Mr.Nandakumar
Central Government Standing Counsel
for R.1
: Mr.V.Muruganantham
Additional Government Pleader
for R.2 and R.3
: Mrs.Srimathy
for Mr.S.M.S.Johny Basha
for R.4

JUDGMENT

(Judgment of the Court was made by **T.S.SIVAGNANAM.J.**)

Heard Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioner and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 2 and 3. Mr.Nandakumar, learned Central Government Standing Counsel is directed to take notice for the first respondent and Mrs.Srimathy, learned Counsel is directed to take notice for the fourth respondent.

2. This appeal is directed against the order made in W.P. (MD)No.6952 of 2017, dated 18.04.2017. The said writ petition was filed by the appellant herein praying for Writ of Mandamus to direct the respondents 1 to 3 to grant licence for the petitioner's Saw Mill, as per the provisions of the Tamil Nadu Regulation of Wood Based Industries Rules, 2010. Though a direction was sought for as against the respondents 1 to 3, the first respondent is not the licensing Authority and the licensing Authority is only the third respondent, but he is not entitled to act independently without the orders or opinion of the State Level Empowered Committee constituted for such purpose. The writ petition came to be dismissed by the impugned order on the ground that the issue was already adjudicated by the learned single Judge and also confirmed by the Division Bench and therefore, the Writ Petition is not maintainable.

3. The earlier Writ Petition filed by the petitioner in W.P.(MD)No.7747 of 2014 was for issuance of writ of Certiorari to quash the proceedings of the Wild Life Warden, Nagamali Wild division, dated 28.03.2014 by which, the licence granted to the appellant saw mill was cancelled. The said Writ Petition was heard along with the another connected matter in W.P.(MD)No.5276 of 2014 and disposed of by a common order dated 05.08.2014. The operative portion of the above said order reads as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

"10. The learned counsel for the petitioner would seek to rely upon the Municipal Tax Receipts

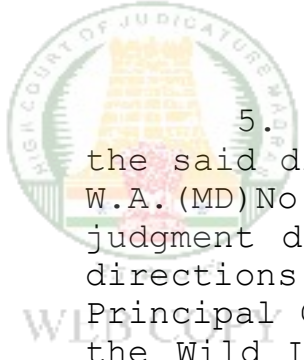


and the electricity bills in respect of the building. In my considered view, those records would not establish that there was a saw mill running in the said premises. Since movement and handling of timber has been regulated under various schemes by the State Government, the petitioner can able to produce some statutory records relating to the timber trade to establish that the unit was in existence prior to 2002. Therefore, the impugned order, dated 28.03.2014, is not set aside. However, on production of those documents, the petitioner is entitled to submit a representation to the first respondent and the first respondent, on being satisfied with the documents produced, shall issue notice to the petitioner, the Wild Life Warden as well as the Commissioner of Chinnamanur Municipality, Theni District and after affording an opportunity to the petitioner to place all the records and also permitting the petitioner to peruse the copies of the complaints given against the petitioner and the report submitted by the saw mill owners association which formed the basis of the impugned order and also after affording an opportunity of personal hearing, the first respondent shall pass a reasoned orders, on merits and in accordance with law.

11. It is reiterated that now the burden of proof is on the petitioner to show that the saw mill was in existence prior to 2002 by producing statutory records relevant to the timber trade.

12. Both the writ petitions are accordingly disposed of. Consequently, connected miscellaneous petitions are closed. No costs."

4. In the above order, this Court did not set aside the order dated 28.03.2014, but granted liberty to the appellant/writ petitioner to produce documents and submit a report to the Principal Chief Conservator of Forest, Chennai and he, on being satisfied with the documents produced, was directed to issue notice to the appellant/writ petitioner, the Wild Life Warden as well as the Commissioner of Chinnamanur Municipality, Theni District and after affording an opportunity to the appellant/writ petitioner to place all the records and also permitting him to peruse the copies of the complaints received by the Department and also affording an opportunity of personal hearing and a direction was issued to the Principal Chief Conservator of Forest to pass a reasoned order on merits and in accordance with law. It was reiterated that the burden of proof is on the appellant/writ petitioner to show that the saw mill was in existence prior to 2002 by producing statutory records relevant to the timber trade.



5. The appellant/writ petitioner, not being satisfied with the said direction, preferred an appeal against the said order, in W.A.(MD)No.1324 of 2014. The Division Bench of this Court, by judgment dated 24.11.2014, dismissed the appeal and confirmed the directions issued in the writ petition. Pursuant to that, the Principal Chief Conservator of Forests has issued a proceedings to the Wild Life Warden, Mehamalai Wild Life Division, Theni with a copy marked to the Conservator of Forests, Madurai and the appellant. In the said notice, it has been stated that the District Forest Officer, the third respondent herein, was requested to examine the application as per the orders of the Honourable Supreme Court of India in W.P.No.202/95, the guidelines of the Central Empowered Committee, Tamil Nadu Regulation of Wood Based Industries Rules, instructions issued from the office of the Principal Chief Conservator of Forests and take action as per the rules in force and send report with the remarks of the District Forest Officer through Conservator of Forests immediately so as to comply with the Court order. Further it was informed that the said proceedings is not an N.O.C for shifting, name transfer and change of address.

6. Pursuant to the receipt of the said notice, the appellant/writ petitioner has submitted his representation dated 13.04.2016 and said to have produced certain records also.

7. The learned Additional Government Pleader appearing for the respondents 2 and 3, on instructions, would submit that as of now, the matter is under consideration of the State Empowered Committee, which will have to take decision on the representation given by the appellant/writ petitioner along with the remarks furnished by the District Forest Officer as well as taking note of the orders passed by the Honourable Supreme Court of India in W.P.No.202/95, the guidelines of the Central Empowered Committee, Tamil Nadu Regulation of Wood Based Industries Rules, instructions issued from the office of the Principal Chief Conservator of Forests.

8. In the light of the said fact, we are of the view that the Writ Petition should not have been dismissed on the ground that already the issue has been adjudicated. In fact, the writ Court had given liberty to the appellant/writ petitioner coupled with certain directions to the Principal Chief Conservator of Forests, which has been understood correctly and notice dated 23.01.2016 has been issued. Therefore, we are inclined to direct the Authorities to proceed further with the matter.

9. For the above reasons, the Writ Appeal is allowed and the impugned order is set aside. The State Level Empowered Committee formed for such purposes, is directed to consider the matter in accordance with law and also as per the orders passed by Supreme Court of India in W.P.No.202/95, the guidelines of the Central Empowered Committee, Tamil Nadu Regulation of Wood Based Industries Rules, instructions issued from the office of the Principal Chief Conservator of Forests and take decision in the matter within a period of four months from the date of receipt of



a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

- 1.The State Level Empowered Committee,
Panagal Building,
Saidapet, Chennai-15.
- 2.The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai-15.
- 3.The Member Secretary,
The Central Empowered Committee,
Gate No.31,
Jawaharlal Nehru Stadium,
Lodhi Road, New Delhi-110 003.
- 4.The District Collector,
Collectorate,
Theni District.
- 5.The District Forest Officer,
Office of the District Forest Officer,
Theni Division,
Theni, Theni District.
- 6.The Assistant Executive Engineer,
Distribution/Metro,
TANGEDCO,
Chinnamanur,
Theni District.

+1cc to Special Government Pleader in SR.No.59769
+1cc to Mr.T.Lajapathi Roy, Advocate in SR.No.59596
+1cc to Mr.R.Nandakumar, Advocate in SR.No.59501

ssl

AE/SV MMS/SAR1/16.06.2017/5P/10C

W.A (MD) No.580 of 2017
and

C.M.P. (MD) No.4815 of 2017