



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2017

CORAM

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD) No.20526 2017****and****W.M.P. (MD) Nos.16819, 16820 of 2017**

P.Jeyalakshmi

... Petitioner

Vs.

The District Forest Officer,
Office of the District Forest Officer,
Tuticorin,
Tuticorin District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order passed by the Respondent in his Proceedings Na.Ka.No.Ku/6142/2006, dated 28.10.2017 and quash the same and consequently direct the Respondent to issue Licence in respect of petitioner's unit having office at No.447/1, Ettayapuram Road, SIDCO, Thittankulam, Kovilpatti, Tuticorin District.

For Petitioner : Mr.S.T.Sasidharan Tamilkani

For Respondent : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal at the stage of admission itself.

2.Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the respondent.

3. The learned Additional Government Pleader appearing for the respondent would submit that when the similar issue came up for consideration before the Hon'ble Division Bench of this Court in **Senthil Kumar vs. The Junior Engineer, Operation and Maintenance, Tamil Nadu Electricity Board, Kattampuliyur - 607 103 and others [W.A. (MD) Nos.1706 of 2017 etc., batch] decided on 22.08.2012**, while dismissing the batch of writ appeals, the Division Bench has

<https://hcservices.ecourt.gov.in/hcservices> shows:

"12. In Singh Saw Mill vs. State of Jharkhand and Ors., (2003) 1 J.L.J.R. 137, the writ petitioner

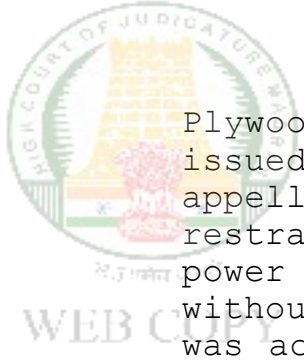


challenged the order passed by Divisional Forest Officer, Deoghar by which application for grant of licence was refused. The claim of the petitioner was rejected by the respondents on the ground that the petitioner was running saw mill illegally without any licence rather on the basis of deemed licence and on inquiry it was found that petitioner violated the provisions of India Forest Act and further that the State Government vide letter No. 343, dated 28.10.2000 had instructed the Divisional Forest Officer to close down all illegal saw mills and reduce the saw mill in the district of Deoghar. It was contended by the respondents that decision was taken to reduce the number of saw mills in the district of deoghar. A Bench of this Court while disposing of, the writ petition directing the respondents to reconsider the application observed :-

"Thus, from a bare perusal of the observation of the Supreme Court, it is apparent that there is no ban on renewal of licences and the respondents, while passing the impugned order appears to have not properly appreciated this aspect of the matter, Therefore, so far as the refusal to grant the licence on the ghazls of the order of the Supreme Court is concerned, the same needs reconsideration on the basis of reasonings which would be appropriate in the facts and circumstances of the case. In the instant case, the petitioner had no licence at all. He had applied for one and therefore what was the basis for restricting the saw mills to a limited number is not well explained save and except a vague plea that the Committee decided to do so. Moreover, and as has already been noticed earlier, the direction of the Hon'ble Supreme Court was in relation to Maharashtra and Uttar Pradesh only".

13. It is worthwhile to mention here that at the time when the aforesaid directions were issued by the Supreme Court in I.A. Nos.276 etc. in W.P. (C) No.202 of 1995, there were no Rules, and only upon the direction of the Supreme Court to the States to frame the relevant rules, in the year 2010, the Tamil Nadu Regulation of Wood Based Industries Rules, 2010 were brought into effect and under the said Rules, the District Forest Officer is the authorised officer to grant the licence and before granting such licence, certain procedures have to be complied with. One of the conditions for grant of licence is that the concurrence of the Central Empowered Committee has to be obtained and that is also the mandate as per the order of the Supreme Court.

14. The learned single Judge rightly observed that in view of the directions of the Hon'ble Apex Court in the aforesaid order, it is clear that the Saw Mills, Veneer,



Plywood Industries cannot operate without the licence issued by the competent authority and therefore, the appellants cannot make a plea for issuing an order to restrain the electricity board from disconnecting the power supply or for a direction to continue the industries without a licence issued by the competent authority. It was accordingly held that unless and until the licence is issued after complying with the formalities as required under the rules and the direction of the Supreme Court, no right will accrue to the appellants to run the industries, which admittedly, are unauthorised.

15. The grievance of the appellants is that they had made applications to the competent authority for grant of licence and in many cases, their applications had been considered, processed and forwarded to the State Level Committee for scrutiny and for further consideration by the Central Empowered Committee for its approval, but no orders were passed and the inordinate delay was causing prejudice. It was also contended that since the recommendations of the District Forest Officer/competent authority had already been given, they should be allowed to run the industries. The learned single Judge rightly observed that the relief sought for by the appellants cannot be issued in view of the specific direction issued by the Supreme Court that no State or Union Territory shall permit any unlicensed saw-mills, veneer, plywood industry to operate without proper licence and also in view of the direction to close the unlicensed units forthwith.

16. Before the learned single Judge, the respondents had stated the reason for the time taken to process the applications. The learned single Judge held that in view of the above, the appellants cannot insist for electricity or an order of the court to run the industry pending consideration of their claim, which will be contrary to the order passed by the Apex Court. However, in view of the plea of the learned counsel for the appellants/writ petitioners that the applications may be directed to be considered at an early date since their livelihood is very much affected, the learned single Judge directed the District Forest Officers concerned to verify the applications, which if were found in order, were directed to be forwarded to the State Level Committee, which in turn shall scrutinise and place the same before the Central Empowered Committee at the earliest for its consideration, without any delay. This will ensure that the applications are considered as early as possible and assuage the grievance of the appellants that their right to livelihood is being affected for non consideration of the applications in time. However, the learned single



Judge made it amply clear that till such time the license is issued by the competent authority after following the procedure as applicable, the appellants/writ petitioners cannot claim as a matter of right to run the industry or for grant of electricity power supply. The learned single Judge further directed that in cases where the applications had been returned for certain defects, they could be re-submitted in proper format with requisite fee to the appropriate authority, who shall thereafter scrutinise it and forward the same to the Empowered Committee for its approval in the manner stated above without undue delay for consideration and expeditious orders.

17. After giving our anxious consideration to the facts of the case and the law laid down by the Supreme Court, we are of the definite view that the Rules framed by the State Government will not in any way supersede the guidelines framed by the Supreme Court in the matter of regulation of sawmills in the State.

18. For the aforesaid reasons, we do not find any merit in these appeals, which are accordingly dismissed. However, there shall be no order as to costs."

Therefore, he prayed that this writ petition has to be dismissed at the threshold with costs.

4. The learned counsel for the petitioner has submitted that though the petitioner had applied for necessary licence to run the unit, the respondent has, all of a sudden, passed the impugned order without issuing any show cause notice to him. Hence, the impugned order is liable to be set aside.

5. Heard the learned counsel on either side.

6. It is not the case of the petitioner that even after production of the required documents, including the licence from the Forest Department, the respondent has passed the impugned order. The order of rejection passed by the respondent for non-production of documents by the petitioner is perfectly valid in the eye of law and the same cannot be faulted with, in view of the authoritative pronouncement of the Hon'ble Division Bench of this Court cited supra. Therefore, this Court cannot take a different stand other than the one arrived at by the Higher Forum and hence, this Court is of the view that this writ petition is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/



To:

The District Forest Officer,
Office of the District Forest Officer,
Tuticorin,
Tuticorin District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 86284
+1cc to Mr.S.T.SASIDHARAN TAMILKANI Advocate in SR. No. 86013

RM

JS/SKN.RSK/SAR.1/15.11.2017/5P-4C

W.P(MD) No.20526 2017
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