

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.19647 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.5 i.e. Forest Range Officer, Varni in seizing petitioner saw mill by conducting a panchanama dated 27-02-2017 alleging that there are Vertical Bend Saw and Horizontal Bend Saw by referring to the proceedings of the Respondent No.4 i.e. Forest Divisional Officer, Nizamabad vide Rc.No.506/2016/F1 dated 10-02-2017 without issuing any notice and without granting an opportunity as illegal, arbitrary, without jurisdiction, violative of principles of natural justice and contrary to the provisions of "A.P Forest Act 1968 and the A.P Saw Mill (Regulation) Rules 1969 and set aside the same.”

2. Heard learned counsel for the petitioner and the learned Government Pleader for Forests, representing the respondents and perused the prayer in the writ petition with supporting affidavit.

3. As per the supporting affidavit, the petitioner was granted license in Form-II under Rule 4(2) of A.P. Saw Mills (Regulation) Rules, 1969, more than 15 years back and the

license is renewed from time to time including on 26.02.2016, vide license No.34/N6/SM/2013, which discloses that permission is granted for installation and running the machinery and equipment viz., Horizontal Bend saw and HP Electric Motor. Later, the Divisional Forest Officer, Nizamabad, granted license No.34/N6/SM/2013, dated 30.01.2004, for one vertical bend saw. He thereby purchased the required vertical bend saw and horizontal bend saw for the sawmill by following the Rules with no adverse remarks and due to oversight, the authorities failed to mention the licenses from 2004 onwards and he brought it to the notice of the authorities regarding the omission. On enquiry, he came to know of the Vigilance and Enforcement Wing, inspected sawmills of Nizamabad District, during 11/12.04.2016, but not that of the petitioner. Thus, the original license since included horizontal bend saw, that was a mistaken omission in 2004 in its mention and later even permitted vertical bend saw to say he got license for horizontal bend saw and vertical bend saw and the impugned panchanama proceedings dated 27.02.2017 in seizure of the mill alleging there is additional bend saws in the sawmill is incorrect and even presence of horizontal bend saw, there is no violation of conditions of license and the panchanama proceedings of seizure is unjust thereby and also contrary to Section 44 of the Act and Rule 9 of the Rules, 1985.

4. The panchanama in question speaks that there are vertical bend saw and horizontal bend saw and the same are additional and contrary to the license terms dated 10.02.2017 in FDO Rc.No.506/2016/F1, thereby it was seized.

5. In fact the issue regarding the requirement of the specific license from the Central Empowerment Committee constituted by the Apex Court in W.P.(C).No.202 of 1995 in ***T.N.Godavarman Thirumulpad Vs. Ashok Khot and Another***¹ and later the Principal Chief Conservator of Forests, issued proceedings in reference No.56114/2005-V.3, dated 06.05.2013, as Circular No.7 of 2013 pursuant to the directions of the writ petition supra for compliance of instructions therein whether there are 17 sub-categories as A1 to A17. The petitioner's sawmill must come within any of its purview as State Level Committee also constituted pursuant to it, including from the final disposal of the said writ petition by the Apex Court in October 2015 and the said categorization supra applied to the sawmills established before and after 30.10.2002.

6. It is pursuant to which after the bifurcation of the composite State of Andhra Pradesh into State of Telangana as new State and the remaining as State of Andhra Pradesh, the Government of Telangana, represented by its Principal Secretary to Government, issued G.O.Ms.No.203,

¹ (2006) 5 SCC 1

Environment, Forests, Science & Technology (For.I) Department, dated 16.12.2016, whereunder it is mentioned from the Principal Chief Conservator of Forests of the T.S., Ltr.No.3540/2014/Prod-2, dated 29.10.2016 and dated 19.11.2016, in issuing the order which reads that the Ministry of Environment, Forests and Climate Change, Government of India, New Delhi, has framed the 'Wood Based Industries (Establishment and Regulation) Guidelines, 2016' and as per the orders of the Hon'ble Supreme Court of India, dated 05.10.2015, directed to constitute a State Level Committee with the members as stipulated in the guidelines in requesting the Government to constitute a state level committee for Telangana State, the Government constituted the State Level Committee for Telangana State with Principal Chief Conservator of Forests as Chairperson, Additional Chief Conservator of Forests (Central), Additional Principal Chief Conservator of Forests (Working Plan), as Members, Commissioner/Additional Director, Industries Department as also another Member, General Manager, Telangana State Forest Development Corporation Limited as another Member and additional Principal Chief Conservator of Forests (Production) as Member Secretary.

7. Having regard to the above, this writ petition is disposed of, directing the respondent to pass appropriate orders with reference to the above and also by the orders covered by this

Court in W.P.Nos.19665 of 2017 and batch, dated 11.07.2017, a copy of the said order shall be enclosed herewith and take necessary steps subject to such compliance for release of the sawmill of the petitioner for its functioning if any.

08. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

.07.2017
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DR.B.SIVA SANKARA RAO, J

