

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15399 of 2014

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Bhola Mistry Son of Kameshwar Mistry resident of Village Orho, P.S. Nardiganj,
District Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. Commissioner Magadh Range, Gaya, (Member of Selection Committee.)
3. Forest Conservator Officer, Gaya (Member of Selection Committee)
4. Divisional Forest Officer, Nawada Division, Nawada.
5. Dai Mistri Son of Gaya Mistri Resident of Village Rajauli (Mahuatand), P.S.
Rajauli, District Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. M.P.Bhartee, Advocate Mrs. Manisha Prakash, Advocate
For the State	:	Mr. HARISH KUMAR, GP-8 Mr. Sudhanshu Bhushan, AC to GP-8
For the Respondent No.5	:	Mr. Vinay Mistry, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 06-09-2018

This application has been filed for quashing the judgment dated 26.05.2014 passed in Adhoc Additional District Judge-III, Nawada in Miscellaneous Appeal No.13/2011/01 of 2012. The learned appellate court as per impugned judgment has dismissed the appeal filed by the present petitioner.

2. Heard learned counsel for the petitioner and the respondents.

3. The petitioner before this Court filed an application for a license to run a saw mill. The said application after completing the



required formalities was placed at serial no.5 of list 'Ka' but subsequently the licensing authority refused to grant license. The petitioner filed an appeal before District Judge against the said order which was dismissed.

4. The learned counsel for the petitioner submitted that the learned appellate court at para-7 of the impugned judgment has stated that the petitioner had deposited security money along with application on 27.08.2002 whereas the last selected person Jagdish Prasad had deposited application fee and security money on 16.08.2002. The court below further observed that the final list does not show that any of the selected persons had deposited the application fees and security money after this application and accordingly, appeal was dismissed. The learned counsel further submitted that in the merit list of Nawada district, the name of this petitioner finds place at sl.no.5 but he was not granted license and the persons whose name was at sl.no.132 of provisional list and had deposited the fees and security money much after the deposit of fee by this petitioner has been granted license and so the learned appellate court below has committed serious error in dismissing the appeal.

5. The learned counsel for the respondent no.5 as well as State of Bihar on the other hand submitted that the seniority list was not correctly prepared by the competent authority and so another list



was prepared and published by the competent authority. As per order dated 24.09.2012 altogether ten persons were placed in the seniority list by the committee constituted by the Government of Bihar vide Sankalp No.2563 dated 16.08.2012. The petitioner has not filed any appeal against preparation of seniority list containing 44 persons. The learned counsel for the State of Bihar submitted that in view of recommendation made by Central Empowered Committee on 09.03.2012 and order passed by Hon'ble Supreme Court on recommendation of Central Empowered Committee, the name of saw mills which have not been granted license under Bihar Saw Mills (Regulation) Act, 1990 are not required to be included in seniority list of the saw mills. The State Government has constituted committee as per resolution dated 16.08.2012 and accordingly a fresh seniority list for Nawada district has been published. The said seniority list has not been challenged by the present petitioner and so the present writ application is not maintainable.

6. On going through the submission of both the parties and documents annexed with the counter affidavit of respondents, I find that the State of Bihar has already notified the seniority list of ten saw mills under order dated 24.09.2012 which has not been challenged by the petitioner and so in view of publication of fresh seniority list, this application has become infructuous.



7. In view of above facts, I do not find any merit in this application and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.09.2018
Transmission Date	N/A

