

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3618 of 2016

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Binod Sah Son of Shree Rajeshwar Prasad Resident of village - Dardha
Mohammadpur, P.S. Sakara, District - Muzaffarpur

.... **Petitioner**

Versus

1. The State of Bihar through Commissioner - Cum - Secretary, Department of Forest and Environment, Government of Bihar, Patna
2. The Principal Chief Conservator of Forest, Government of Bihar, Patna
3. The Chief Conservator of Forest, Government of Bihar, Patna
4. The Appellate Authority - Cum - Forest Conservator, Muzaffarpur Circle, Muzaffarpur

.... **Respondents**

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Appearance :

For the Petitioner : Mr. Mani Bhushan Kumar, Advocate

For the Respondents : Mr. Rakesh Kr. Shrivastava, AC to GP 15

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 31-07-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner has sought quashing of the order passed
by the Appellate Authority cum Forest Conservator, Muzaffarpur
Circle, Muzaffarpur (respondent no.4) on 28.09.2015 in Appeal
case no. 14 of 2015 rejecting his appeal. Said appeal has been filed
pursuant to the observations made by this Court under order dated
23.1.2015, passed in CWJC No. 17802 of 2014. When the appeal
was not being disposed of the petitioner had approached this Court
under contempt proceeding in MJC No. 1754 of 2015. During
pendency of the said MJC proceedings, order dated 28.9.2015 has
been passed by the Appellate Authority which is impugned in the



writ petition.

3. The short issue raised by learned counsel for the petitioner is that though the date fixed in the matter is 26.9.2015 without issuing any order on that date the matter has been considered and disposed of on 28.9.2015 without allowing the petitioner adequate opportunity or any information to enable him to appear on the said date, as earlier date was fixed as 26.9.2015. This issue stands crystallized in the order dated 4.11.2015, passed in the petitioner's contempt application bearing MJC No. 1754 of 2015.

4. Even in the instant proceedings, there is no specific stand in the counter affidavit to the extent that the petitioner was ever served with any notice that the next date 28.09.2015 is being fixed for hearing of the appeal.

5. The issue therefore remains that whether the petitioner is entitled to be heard in the appeal which he has filed as Appeal case no. 14 of 2015. The only conclusion possible is that petitioner was legally required to be heard. Order dated 28.9.2015, which has been passed without hearing the petitioner, is unsustainable and is violative of the principle of Natural Justice. It is also in contravention of the mandate of this Court dated 23.1.2015, passed in CWJC No. 17802 of 2014, filed by the petitioner.

6. The matter is therefore, remanded to the Appellate



Authority (respondent no.4). Order dated 28.9.2015 is quashed. The Appellate authority shall take a decision afresh after hearing the petitioner. To facilitate disposal of the appeal, the petitioner will appear before the Appellate Authority on 24.8.2018. It is made clear that the petitioner would be under obligation to co-operate for disposal of the appeal expeditiously.

7. The writ petition is allowed to the extent indicated herein above.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.8.2018
Transmission Date	NA

