THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.25866, 26729, 26740, 26761, 26762, 26763, 26764, 26765, 26766, 26767, 26768, 26769, 26770, 26771, 26772, 27557, 27839, 27840, 27841, 27842, 27843, 27844, 27845, 27846, 28102, 28120, 28271, 28272, 28273, 28274, 28351, 29289, 30519, 30525, 30526, 30572, 31230, 31231, 31239, 31252, 31253, 31503, 31505, 31506, 31507, 31508, 31509, 31510, 31512, 31513, 31514, 31617, 31628, 31633, 31651, 31653, 31654, 31655, 31656, 31657, 31658, 31659, 31660, 31662, 31663, 31665, 31666, 31667, 31668, 31669, 31672, 31674, 31678, 31821, 31822, 31823, 31842, 31847, 32147, 32148, 32702, 33070, 33414 & 33584 of 2014

COMMON ORDER:

Since the issue involved in these Writ Petitions is common, they are clubbed together and are being disposed by this common order.

For the sake of convenience, the facts setout in Writ Petition No.26729 of 2014, are briefly stated as under:

Petitioner asserts that she established M/s.Kalyani Saw Mill and Timber Depot in 1998 and thereafter, changed its name to M/s.Sri Lalitha Furniture Industry, and is running the same without any complaint; that her Saw Mill is having vertical and horizontal saw bands and that licence granted in her favour is valid up to 31.12.2015. She further asserts that a show cause notice was issued to her by the 3rd respondent – District Forest Officer, Kakinada Division, Kakinada, East Godavari District, on 08.08.2014 to show cause as to why the permission given for installation of additional machinery should not be cancelled and

such additional machinery should not be removed, to which, she submitted her explanation on 20.08.2014 particularly adverting to how and in what circumstances, the order of the Apex Court dated 29/30.10.2002 in Writ Petition (Civil) No.202 of 1995 does not apply to her case; and that without considering her explanation, the 3rd respondent passed order, dated 28.08.2014 withdrawing the permission accorded for installation of additional machinery, directing her to remove the additional machinery with immediate effect and suggesting her to approach the Central Empowered Committee (CEC) through the Principal Chief Conservator of Forests to examine her request, if any, in that regard. Aggrieved by the said order, the petitioner filed this Writ Petition.

On 12.09.2014, this Court, while ordering notice to the respondents, granted interim stay of the impugned order for a limited period. However, the same was extended from time to time.

Along with I.A.No.1 of 2014 (WVMP.No.3336 of 2014), a counter-affidavit is filed by respondents 1 to 3.

On 18.09.2018, the 3rd respondent filed an additional counter-affidavit stating that by issuing G.O.Ms.No.48, Environment Forests Science & Technology (Section.II), dated

08.05.2018, published in the Gazette on 11.05.2018, the Government in exercise of the powers conferred by Section 29 read with Section 68 of the Andhra Pradesh Forest Act, 1967 (Act 1 of 1967) and in supersession of Andhra Pradesh Saw Mills (Regulation) Rules, 1968, issued in G.O.Ms.No.457, Food & Agriculture (Legn) Department, dated 12.03.1969, framed rules under the name and style of "The Andhra Pradesh Wood Based Industries (Establishment and Regulation) Rules, 2018" and that in terms of the said Rules, the petitioners' cases would be considered.

Heard learned counsel for both the parties.

A perusal of the Andhra Pradesh Wood Based Industries (Establishment and Regulation) Rules, 2018 (for short 'the Rules') discloses that they are comprehensive enough to deal with the issue raised in these Writ Petitions.

Rule 2(c) of the Rules defines 'Licensing Authority' as the Divisional Forest Officer having jurisdiction over the place of establishment of wood based industry.

Rule 2(h) defines 'State Level Committee'.

While Rule 3 of the Rules prohibits operation of any wood based industry without obtaining licence from the Licensing

Authority, Rule 4 specifies the requirements to apply for grant/renewal of licence to operate a wood based industry.

As per the Rules, any person desiring to install or erect or operate a wood based industry is required to make an application to the Licensing Authority under Form-I by paying requisite licence fee. The application so made shall be placed before the State Level Committee which in turn shall consider for grant of licence or otherwise and communicate its approval to the Licensing Authority, who in turn, shall formalize the same by issuing a licence. In the event of refusing to consider any application, such decision of the State Level Committee is appealable in terms of Rule 9 of the Rules.

The renewal of licence is governed by the Rules and the procedure therefor is also the same for grant of licence except the fact that an existing licence holder is entitled to seek renewal of the licence three months prior to the expiry thereof. However, there is a caveat that if the application for renewal of licence is not made before February of the year, it shall be presumed that the licencee is not interested in seeking renewal of licence, in which event, such person is required to seek fresh licence, as it was not filed within the stipulated time.

The procedure for cancellation/revocation of licence is also comprehensively dealt with in the Rules.

It is submitted by the learned counsel for the petitioners that all the petitioners are holding licences as on the date of filing their respective Writ Petitions.

The learned counsel for the petitioners as well as the learned Government Pleader for Forests appearing for the respondent authorities submit that the petitioners were granted permission to install additional machinery in their respective Saw Mills, but, they were directed to deinstall the same on account of the order of the Apex Court which mandated the permission to be obtained from the Central Empowered Committee and that necessary directions may be issued to the authorities concerned to consider the cases of the petitioners in terms of the Rules.

It may be noted that the petitioners, who are the licence holders, are also required to obtain licence in terms of Rule 4(3) of the Rules. For the sake of clarity, Rule 4(3) of the Rules may be noted hereunder:

> "Every Proprietor of an existing wood based Industry shall obtain a licence from the Licensing Authority within sixty days from the date of publication of these rules and any existing wood based Industry should not be operated

beyond sixty days from the date of publication of these rules without a valid licence under these rules."

As per the aforesaid Rule, existing licence holder is required to obtain licence from the Licensing Authority within 60 days from the date of publication of the Rules and is prohibited from operating the existing wood based industry beyond 60 days. By this implication, it is for the Licensing Authority to process and grant licence within the stipulated period of 60 days. In other words, the time limit within which the Licensing Authority is required to grant licence is 60 days.

Further, in terms of Rule 10(4), which is a deeming provision, the interests of the petitioners, who submitted applications for renewal, would be protected till their applications are disposed of by the Licensing Authority.

In those circumstances, all these Writ Petitions are disposed of, granting liberty to the petitioners to submit their applications in Form-I to the Licensing Authority within four weeks from today. Thereupon, the Licensing Authority shall process the same within a period of three (3) months thereafter. Till such time, the petitioners shall be entitled to continue to run their wood based industries.

The Chief Conservator of Forests shall issue necessary instructions to all the Licensing Authorities with respect to passing of this order for necessary implementation. It is further made clear that the respondent authorities shall not insist upon furnishing a copy of the order in the respective Writ Petitions and based on the common order passed in this batch of cases, a copy of which is made available, the authorities shall act upon and take necessary steps.

Miscellaneous Petitions, if any pending, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

19th SEPTEMBER, 2018.

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