THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Writ Petition Nos.4940,5932,6010,7033,7076
and
3525 of 2018

COMMON ORDER:

Among the 6 writ petitions but for in W.P.No.3525 of 2018 filed by respective petitioners are against the 4 respondents viz: 1) State of Telangana rep. by its Prl. Secretary, Department of Environment, Forest, Science & Technology, Hyderabad, 2) Principal Chief Conservator Of Forest (for short 'the PCCF'), 3) the District Forest Officer (for short, 'the DFO') Hyderabad, and 4) State Level Committee (for short, 'the SLC') rep. by its Member Secretary; So far as W.P.No.3525 of 2018 is concerned besides the State represented by Principal Secretary, the PCCF, the DFO of Medchal, and the SLC supra, the 5th respondent added was Central Empowered Committee (for short, 'the CEC') under the Ministry of Environment, Forest and Climate Change (for short, 'the MEOFCC') ,GOI, rep.by its Member Secretary.

2. The respective Writ Petitioners are M/s. Sri Sai Saw Mill and Timber Depot rep. by its Proprietor Smt. B.Manemma (in W.P.No.3525 of 2018), M/s Nagarjuna Wood Craft Industries rep.by its Managing Partner Sri Jethalal Patel(in W.P.No.6010 of 2018), M/s Patel Boards & Panels rep. by its Managing Partner Sri Kanti Patel (in W.P.No.5932 of 2018), M/s Gayatri Doors Pvt. Ltd (formerly M/s.Gayatri Industries) rep.by its Managing Director Sri A.Chandra Shekhar (in W.P.No.7076 of 2018), M/s kabra Plywood Industries rep. by its Proprietor Sri Arvind Patel in W.P.No.7033 of 2018 and M/s M.J.Wood Process Industries rep. by its Managing Partner Sri Dilip Patel in W.P.No.4940 of 2018).

3. The prayers in respective Writ Petitions are one in the nature of writ of mandamus to respondents to consider the respective unit of

respective petitioner to issue licence under the Saw Mill Rules as prayed for. In W.P.No.4940 of 2018 to consider the petitioner's unit to issue the licence under the A.P.Saw Mills (Regulation) Rules 1969 (for short, 'the Rules, 1969') in W.P.No.5932 of 2018 to consider the petitioner's unit to issue the licence under the Saw Mill Rules by placing the licence No.1034 before the SLC. In W.P.No.6010 of 2018 to consider the petitioner's unit to issue licence under the Rules, 1969 by placing the licence No.1020,dt.25.10.2004 before the SLC, in W.P.No.7033 of 2018 to consider the petitioner's unit to issue licence under the the Rules, 1969, in W.P.No.7076 of 2018 for consideration of the petitioner's unit for issuance of licence under the Saw Mill Rules and in W.P.No.3525 of 2018 to consider the petitioner's unit as re-issued or renewed the licence No.995, dt.24.04.2003.

4. In support of the respective writ petition averments common to the general facts to avoid repetition in all the six writ petitions are concerned, the Apex Court by order, dt.30.10.2002 in W.P.No.212 of 1995 ordered for stoppage of issuance of any licence by the Forest Department without approval of the 'CEC' constituted on 09.05.2002 pursuant to the order in I.A.No.707, dt.18.02.2002 to deal with the issues related to Saw Mills, Wood Based Industries by it and communicated the same to all the Forest Departments in the country.

5. It is averred that same is not applicable to units established prior to that date. Later with approval of the CEC, the SLCs constituted to deal with these issues of the respective States particularly to examine the cases involved in renewal and the other related cases and to submit appropriate recommendations to CEC. It is averred further that the CEC/SLC in their 4th meeting held on 20.01.2007 categorized Saw Mills and other Wood based Industries to 17 Sub Categories viz; A.1 to A.17

depending upon their nature of the issues involved along with specific recommendations and examined and recommended in different meetings of the CEC issued orders from time to time which are tabulated In the Circular No.7/2013,dt.06.05.2013 issued by the Forest Department and the R.2-the PCCF, given public notice through newspapers, dt.11.03.2013 that all Plywood, veneer, block wood, particle board, MDF units etc., requires a saw mill license and all the units established before 30-10-2002 also should obtain saw mill license and given opportunity to submit the applications with all relevant evidences and supporting documents by 31-03-2013 by placing before next SLC meeting to recommend for issuance of saw mill license if any. The recommendation of the SLC is considered by the CEC, and communicated approval to issue licenses vide File No.1-21/CEC/SC/2013-Pt.VI, dt.19.08.2013. The R.2-the PCCF issued a letter Ref.No.16196/2013V3, dt.01.10.2013 to R.3-DFO to take appropriate action to issue license as per the approval of the CEC.

6. It is further averred that the Apex Court in W.P.No. 202/1995, dt.05/10/2015 directed all State Governments to constitute separate SLCs to independently function without intervention of the CEC to decide as per the guidelines of the Ministry of Environment & Forest, GOI, and as per the orders of Supreme Court, the Ministry of Environment & Forest (GOI) has framed certain guidelines and notified the same through Govt. of India, Gazette No.2693 dt.16/11/2016 and pursuant to the guidelines of the Ministry of Environment & Forest (GOI) has issued "Telangana Wood Based Industries (Regulations) Rules,2016 (for short, the TWBI Rules 2016) were already framed which came into

force w.e.f.26.09.2016. In conformity with the guidelines of the GOI, the Government of Telangana has constituted the SLC on 16.12.2016 vide its G.O.Rt.No.203,dt.16-12-2016, to function according to the guidelines and perform all the responsibilities of issuance and renewal of licenses of Saw Mills/WBIs etc. under the Chairmanship of the PCCF-R.2 by the SLC. All the pending applications should be placed before the SLC by the DFO or others concerned for final approval by the SLC and it is the indication that resulted in filing the respective writ petitions.

7(a). So far as the specific averments in each of the petitions concerned, in W.P.No.4940 of 2018, it is averred of the petitioners WBI was established in 2000-01 and applied for licence in 2003 and the bar of the Supreme Court Judgment giving effect from 30.10.2002 has no application. There is no justification in non-renewal of the licence of the petitioner sought for in 2006 for earlier the licence granted bearing No.1022, dt.17.09.2004 and renewed upto 31.12.2006, even paid the renewal of the Saw Mill licence and without any dues and pursuant to the newspaper general notice dt.11.03.2013 supra, the petitioner submitted application for licence with all evidence and supporting document showing the unit was established prior to 30.10.2002 and the petitioner's application was placed before the 16th meeting of SLC, dt.20.06.2013 and recommended for issuance of approval by the CEC, and CEC approved to issue licence vide File No.1-21/CEC/SC/2013-Pt.VI,dt.19.08.2013 supra and from the letter of the respondents, dt.09.12.2013 to submit necessary timber returns, evidences of payment of renewal

fees arrears dues, the petitioner had submitted all the necessary documents including the arrears payment details to the 3rd respondent through letter dated 26-12- 2013 to the R.3-DFO and the petitioner's application is since that date 26.12.2013 pending with respondents despite several representations to place before the SLC for final approval which constrained to file the writ petition.

7(b). Coming to the specific averments in W.P.No.5932 of 2018, it is averred that the unit of M/s Patel Boards & Panels was established in 2001 to manufacture Ply Wood, Flush Doors and Block Boards as a Secondary Wood Based Industry(SWBI) which is not directly dependent on the forest produce or forest available timber, but procures the locally available saw timber from the licensed Saw Mill units and this sawn timber is used in making furniture and household requirements like Flush Doors and Block Boards and SWBI does not use any machinery like Band Saw or Horizontal Saw to cut the timber logs procured from the forest and such units are called as SWBIs, separately categorized under Saw Mill Rules and even Saw Mill Rules, 1969 not specifically provided for any licence for it but for Sales Tax licence and Factory licence and he got Commercial Tax Certificate, Certificate of Registration as Manufacturer, VAT Registration Certificate, Company PAN Card, Certificate of Permanent SSI Registration and Factory Licence, which are of the years 2001 to 2003 January and the petitioner's unit is established much prior to 30.10.2002 and not covered by the year of the Apex Court, dt.30.10.2002 and having obtained the Forest Licence No.1034,dt.29.07.2005 and later renewal upto 31.07.2006 as per the Saw Mill Regulations, 1969 having paid the renewal fees of the Saw Mill licence until 31.12.2016 without any dues applied for renewal also

pursuant to the newspaper notice, dt. 11.03.2013 to submit applications for obtaining saw mill licence on before 30.10.2002, he applied with all relevant evidences and supporting documents and the application of the petitioner placed before the 16th meeting of the SLC, dt.20.06.2013 where it is recommended to the CEC for approval and the CEC approved by File No.1-21, dt.19.08.2013 and R.2-PCCF issued letter reference No.16196/2013/V3,dt.01.10.2013 to R.3-the DFO to take appropriate action to issue licence as per approval of the CEC and since 01.10.2013 application of the petitioner is pending therefrom even and pursuant to the further orders of the Apex Court, dt.05.10.2015 constituting independent SLCs and from GOI Gazette No.2693, dt.16.11.2016 and Telangana State Government consequent G.O.Rt.No.203, dt.16.12.2016 proceeded by the Rules,2016 w.e.f. 26.09.2016 of the SLC constituted under the Chairmanship of the R.2-PCCF, the application of the petitioner referred supra pending has to be placed before the SLC for final decision and for the communication of respondents, he is constrained to file the Writ Petition.

7©. Coming to the specific averments in W.P.No.6010 of 2018, it is averred that the unit of M/s Nagarjuna Wood Craft Industries was established in 2000 to manufacture Ply Wood, Flush Doors and Block Boards as a Secondary Wood Based Industry(SWBI) which is not directly dependent on the forest produce or forest available timber, but procures the locally available saw timber from the licensed Saw Mill units and this sawn timber is used in making furniture and household requirements like Flush Doors and Block Boards and SWBI does not use any machinery like Band Saw or Horizontal Saw to cut the timber logs procured from the forest and such units are called as SWBIs, separately

categorized under Saw Mill Rules and even the Rules, 1969 not specifically provided for any licence for it but for Sales Tax licence and Factory licence and he got Commercial Tax Certificate, both Central and State registration Certificate and Boiler Inspection Certificate wayback in 2001 and obtained licence No.1020, dt.25.10.2004 renewed upto 31.12.2006 under the Rules, 1969 and the order of the Supreme Court dt.30.10.2002 not applicable to it and pursuant to the newspaper advertisement dt.11.03.2013 supra from the Forest Department Circular No.7/2013, dt.06.05.2013 supra in asking the units established prior to 30.10.2003 also to obtain Saw Mill licence and apply on or before 31.03.2013 with all necessary documents and in the 16th SLC meeting dt.20.06.2013 recommended for approval of the CEC and the CEC approved and communicated to issue the licence vide File No.1-21/CEC/SC/2013-Pt.VI, dt.19.08.2013 supra and the R.2-the PCCF issued letter reference No.16196/2013/V3, dated 01.10.2013 to R.3-the DFO to take appropriate action to issue licence as per approval of the CEC and since 31.12.2006 the application of the petitioner is pending therefrom even and pursuant to the further orders of the Apex Court,dt.05.10.2015 constituting independent SLCs and from GOI Gazette No.2693, dt.16.11.2016 and Telangana State Government consequently G.O.Rt.No.203,dt.16.12.2016 proceeded by the TWBI Rules,2016 w.e.f. 26.09.2016 of the SLC constituted under the Chairmanship of the R.2-PCCF, the application of the petitioner referred supra pending has to be placed before the SLC for final decision and for the communication of respondents, constrained to file the Writ Petition.

7(d).Coming to the specific averments in W.P.No.7033 of 2018, it is averred that the unit of M/s Kabra Plywood Industries was

established in 2000-2001 to manufacture Ply Wood, Flush Doors and Block Boards as a Secondary Wood Based Industry(SWBI) which is not directly dependent on the forest produce or forest available timber, but procures the locally available saw timber from the licensed Saw Mill units and this sawn timber is used in making furniture and household requirements like Flush Doors and Block Boards and SWBI does not use any machinery like Band Saw or Horizontal Saw to cut the timber logs procured from the forest and such units are called as SWBIs, separately categorized under Saw Mill Rules and even the Rules, 1969 not specifically provided for any licence for it but for factory licence and certificate of Directorate of Industries, APGST, CST Registration, Boiler Certificate and VAT Certificate which are of the years 2000 and 2001 of September and July and the petitioner's unit is established much prior to 30.10.2000-the date of order of the Apex Court, pursuant to which the CEC is constituted by the Supreme Court and the SLC was constituted to examine the cases involving renewal and related cases and to submit with recommendations to the CEC and pursuant to Circular No.7/2013,dt.06.05.2013 issued by the Forest Department and from the Advertisement in newspaper, dt.11.03.2013 to obtain Saw Mill licence by the units established prior to 30.10.2002 applied before 31.03.2013 with all necessary documents and in the 16th meting of the SLC held on 20.06.2013 recommended for approval by the CEC and the CEC approved to issue licence vide File No.1-21/CEC/SC/2013-Pt.VI,dt.19.08.2013 and pursuant to the CEC approval, the R.2-PCCF issued letter reference No.16196/2013/V3,dt.01.10.2013 to R.3-the DFO to take appropriate action to issue licence as per approval of the CEC and pursuant to the letter dated 21.12.2013 to furnish necessary timber returns, evidences

of payment of renewal fees, arrears dues etc., pursuant to the letter dated 26.12.2013 submitted by the petitioner and pursuant to the letter of R.3-DFO,dt.21.12.2013, the amounts claimed further with penalty paid including by security deposit and the petitioner's application was placed before the SLC is pending since 26.12.2016 and pursuant to the further orders of the Apex Court, dt.05.10.2015 constituting independent SLCs and from GOI Gazette No.2693, dt.16.11.2016 and Telangana State Government consequent G.O.RT.No.203,dt.16.12.2016 proceeded by the TWBI Rules,2016 w.e.f.26.09.2016 supra and the Ministry of Environment and Forest GOI Gazette No.2693, dt.16.11.2016 and because of the inaction of the respondents in placing pending applications of the petitioners before the SLC for final decision and for the communication of respondents, the petitioner is constrained to file the Writ Petition.

7(e). Coming to the specific averments in W.P.No.7076 of 2018, it is averred that the unit of M/s Gayatri Doors Private Limited was established in 2002 to manufacture Ply Wood, Flush Doors and Block Boards as SWBI initially as a partnership firm and changed as Private Limited Company on 14.03.2016 and it is not directly dependent on the forest produce or forest available timber, but procures the locally available saw timber from the licensed Saw Mill units and this sawn timber is used in making furniture and household requirements like Flush Doors and Block Boards and SWBI does not use any machinery like Band Saw or Horizontal Saw to cut the timber logs procured from the forest and such units are called as SWBIs, separately categorized under the Rules, 1969 and even the Rules, 1969 not specifically provided for any licence for it but for obtained Directorate of Industries Provisional Registration Certificate, both Central and State Sale Tax Registration

certificates obtained in October, 2002 and the petitioner's unit is established much prior to 30.10.2002 and pursuant to the order of the Supreme Court, constituting of the CECs, in turn constituting the SLCs to examine the cases involved in fresh licence, renewal and other related cases and to submit appropriate recommendations to the CEC, there was 4th meeting held on 20.01.2007 categorizing saw mills and other WBIs into 17 sub-categories from A.1 to A.17 depending upon their nature of the issues involved along with specific recommendations and examined and recommended in different meetings of the C.E.C. issued orders from time to time which are tabulated In the Circular No.7/2013,dt. 06.05.2013 issued by the Forest Department and the R.2-the PCCF, given public notice through news papers, dt.11.03.2013 that all Plywood, veneer, block wood, particle board, MDF units etc., requires a saw mill license and all the units established before 30-10-2002 also should obtain saw mill license and given opportunity to submit the applications with all relevant evidences and supporting documents by 31-03-2013 by placing before next SLC meeting, which earlier deferred, to recommend for issuance of saw mill license if any, the DFO-R.3 by letter No.6792/2010/S14,dt.17.10.2013 written to the General Manger, District Industries Centre(Industries Department, Telangana), Ranga Reddy-1, Balanagar, Hyderabad, to clarify the actual date of commencement of the production of the unit and reply dt.04.06.2014 received stating the unit was treated as commencement of production by 26.10.2002 for all purposes to say prior to the Supreme Court's order, dt.30.10.2002 and Superintendent of Police, Vigilance and Enforcement Officer in their enquiry written to the R.3-DFO by letter No.6792, dt.10.09.2015 clarified saying the petitioner applied for issuance of licence that was established before 30.10.2002 which is prior to the

order of the Supreme Court dt.30.10.2002, the petitioner's application is pending and several letters were addressed right from 2011 including recent one dt.21.08.2015 not yielded any result for the inaction in not placing before the SLC constituted by G.O.RT.No.203,dt.16.12.2016 pursuant to the GOI Gazette No.2693, dt.16.11.2016 and the TWBI Rules,2016 w.e.f.26.09.2016 and pursuant to the constitution of independent SLCs from the further orders of the Apex Court, dt.05.10.2015. The Section 4 proviso of the Rules, 1969 speaks a deemed permission to establish and run unit where respondents not taken action to give licence within two months from the date of receipt of application, the absence of any inaction from the DFO-R.3 so as to establish and run Saw Mill therefrom and thereby constrained to file the writ petition to place before the SLC for final decision.

7(f).Coming to the specific averments in W.P.No.3525 of 2018, it is averred that the unit of M/s Sri Sai Saw Mill and Timber Depot, was established in 2003 and obtained licence No.995, dt.26.04.2003 for establishment of Saw Mill that was valid and later renewed till 31.12.2007 and on 17.01.2006 the R.3-DFO, by letter No. 2712/2003/S14 cancelled the license pursuant to the order of the Supreme Court dt.30.10.2002 supra which speaks no fresh saw mill licence shall be granted beyond 30.10.2002. The CEC constituted by the Supreme Court held its 4th meeting on 20.01.2007 categorizing saw mills and other WBIs into 17 sub-categories from A.1 to A.17 and recommendations issued from time to time are covered by Circular No.7/2013,dt.06.05.2013 issued by the Forest Department and the petitioner's unit falls under category A.12 and as per the Supreme Court's further orders dated 05.10.2015 constituting independent SLCs without intervention of the CEC and G.O.Rt. No. 203, dt.16.12.2016 pursuant to the GOI Gazette

No.2693, dt.16.11.2016 and the TWBI Rules,2016 w.e.f.26.09.2016. As per the CEC covered by circular No.7/2013 dt.06.05.2013 supra and the petitioner's unit comes under A.12 orders issued in W.P.No.15892 and 15514 of 2017 by this High Court to continue operation of Saw Mill until the SLC considers the same recently on 18.09.2017, the petitioner's unit once again submitted representation to the R.3-DFO-the Licensing Authority to consider the petitioner's Saw Mill Unit were recently are re-issued the license and earlier filed W.P.No.30018 of 2017 and withdrawn and not filed any other writ petition, is constrained to file the writ petition seeking to consider, re-issue or renewal of the petitioner's license No.995, dt.26.04.2003 to run Saw Mill.

8. The counter filed on behalf of the official respondents by the R.3-DFO is insofar as the writ Petitions other than W.P.No.3525 of 2018 is with the contentions that the CEC vide file No.2-21/CEC/SC/2013,Pt-VI,dt.18.06.2014 issued further clarification (pursuant to the earlier orders of the Supreme Court dt.30.10.2002) which reads as follows:-

> "2. Pursuant to the order of the Hon'ble Supreme Court (a) all unlicensed Saw Mills, Plywood Industries, Veneer Industries and other Wood Based Industries in the State are required to be closed (b)the grant of license/permissions for unlicensed Wood Based Industries / *New Wood Based Industries can be accorded by the State Government only after prior approval I concurrence of the CEC is obtained (c) plywood industries without peeling/slicers/band saw commonly known as plywood pasting unit can be granted permission/ license by the State only after obtaining prior approval/ concurrence of the CEC* and(d) the grant of permission for installation of additional VBS(Vertical Band Saw) or HBS {Horizontal Band Saw) or Peeling Unit or for operating Ply Wood pasting Unit by a licensed saw mill is permissible only after obtaining prior approval/ concurrence of the CEC."

9. With the object to provide final opportunity to WBI for Saw Mill establishment and run prior to 30.10.2002 having no valid Saw Mill licence, paper notification, dt.12.03.2013 was issued by bringing to the notice of all the order of the Supreme Court,dt.30.10.2002 saying all WBI/Saw Mills established before 30.10.2002 and do not possess a valid licence from the Forest Department of AP to submit their request to

concerned DFO with evidence and supporting documents in original before 31.03.2013 to place before next SLC meeting and applications received from the respective petitioners if any after scrutiny forwarded the proposal of M.J.Wood Process Industries(Petitioner in W.P.No.4940 of 2018 supra),placed before 16th meeting dt.20.06.2013 recommended to issue licence as of the Industry commenced from 18.05.2001. The CEC, vide F.No.2-21/CEC/SC/2013-Pt.VI, dated 19.08.2013 gave their concurrence to issue/restore/renewal of licence to (40) Wood Based Industries and 16 Saw Mills as recommended by the SLC, and it was one of the industries in (40) WBIs recommended by the SLC/CEC. After obtaining field Inspection reports by Rc.No.2255/12-MB, Hyderabad, vide Rc.no.2255/2012-MB, dated 29.04.2014 the Chief Conservator of Forest, it is reported that said industry falling within (5) kms from the nearest Reserved Forest and it was established after issue of G.O.Ms.No.99, EFS&T (For.III) Dept.,dt.17.07.1998 and as per Sub-Rule (2) of Rule (3) of the Rules, 1969 no license for setting up fresh Saw Mills within a distance of 5kms from the boundary of any Forest and thereby requested to issue necessary instructions with regard to taking further necessary action for issue of license if any and the above issue was addressed to CEC vide PCCF, Rc.No.16196/2013/V3, dated 27.05.2014 with request to clarify whether Saw Mill license can be issued to the WBI located within (5) kms from Reserved Forest and instructions were also issued to CF, & DFO, Hyderabad not to issue license to M/s M.J.Wood Process Industries, until clarification received from the CEC and CEC by File No.1-26/CEC/SC2/2013, dt.06.06.2014 cancelled the approval in respect of said industry established within 5 Kms, from nearest Reserved Forest. The Licensing Authority vide Rc.No.5470/514/03,dt.18.07.2013 issued license to M/s M.J.Wood Process Industries, in Sy.No.126 supra

with licence No.1022 with Vertical and Horizontal band saws. It is prior to the issuance of the above licence the Apex Court order dt.30.10.2002 came into force for "No State or Union Territory shall permit any unlicensed Saw Mills, veneer, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any saw mills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance of this direction. There shall also be no relaxation of rules with regard to grant of license without previous concurrence of the Central Empowered Committee." and said licence was issued after the Supreme Court's order and before its communication received dated 20.09.2003 the licence was cancelled that 27.12.2005 for not having the saw mill licence as on 30.10.2002 of the Supreme Court's order. It is further averred that the SLC by CEC in the meeting, dt.20.01.2007 examined various issues pertaining to saw mills and agreed A.2, A.1 to A.17 categories for WBI and saw mills based on their establishments and recommendations submitted to CEC for approval and the CEC given concurrence for few recommendations and the cases of the petitioners filed under category A.12 to the saw mill and WBI of licence issued after 30.10.2002 though before communication of the order of the Supreme Court,dt.20.09.2003 of similar 185 cases placed before 13th SLC meeting held on 14.09.2011 of United State of A.P. and recommended to issue licence duly stipulating certain conditions to CEC and the CEC in turn by file No.F.No.1-19/CEC/SC/2008-Pt.XXXII,dt.23.03.2012 filed I.A.No.1708 and 1709 and also I.A.No.2926 in W.P.No.202 of 1995 and I.A.No.2912 and 2913 of 2010 in W.P.(C) No.20 of 1995 before the Supreme Court duly recommending (185) Saw Mill cases supra for issue of licence with

conditions and one time payment of Rs.10,000/- for vertical brand saw and Rs.1.50,000/- per Horizontal band saw will be made by the respective Saw Mills, subject to re-verification by the licensing authority and by certifying of the concerned unit not found to be involved in any forest offence in use of any illegal timber and/or timber transported without a valid permit for otherwise not eligible for grant of licence or renewal and those saw mills not located within the prohibited area under the Rules, 1969, the petitioners figured in one of the list of 185 cases also was placed before the 13th SLC and recommended with some conditions, the CEC filed before the Supreme Court and as such the petitioner's case is sub judice before the Supreme Court, it is only the CEC to accord permission for grant of fresh Saw Mill license for any WBI/unit including Saw Mill license for any WBI and plywood based units etc, not having valid Saw Mill license as on 30.10.2002. The CEC by F.No.1-26, dt.06.06.2014 cancelled approval in respect of 5 WBIs established within 5 KMs radius from nearest reserved forest, the State Government vide G.O.MS.No.99,dt.17.07.1998 issued amendment to the Rules, 1969 imposing restrictions in establishment of Saw Mills within 5 KMs radius from nearest Reserved Forest and thereby the Writ Petitions are liable to be dismissed.

10. So far as W.P.No.3525 of 2018 the counter-affidavit of the District Forest Officer-R.3 on behalf of the official respondents supra is while referring to the Supreme Court's order dt.30.10.2002 which no way requires repetition in saying the licence of the petitioner's Saw Mill was cancelled on 17.01.2006 in compliance with the Supreme Court's order supra for the Saw Mill licence obtained is after that order and before its communication received, it is the CEC authorized to accord permission to grant fresh saw mill licence for those not having valid saw

mill licence prior to 30.10.2002 and pursuant to the CEC constituted SLC headed by Prl. Chief Conservator of Forests, Spl. Secretary to Government, EFS&T, Govt. of AP, and DIG (Wildlife), Ministry of Environment and Forests, Govt. of India as members to examine and scrutinize all cases for issue of Saw Mill license to WBIs before placing them before C.E.C.

11. In the meeting held on 20.01.2017, they categorized the A.1 to A.17 of the saw mills and WBIs and the CEC gave concurrence to few recommendations of the SLC by examining case by case, the petitioner's case under A.12 category for the saw mill licence issued after 30.10.2002 before receiving communication of the Supreme Court's order and similar 185 cases to which the petitioner is one having placed before 13th meeting of SLC held on 14.09.2011 of the then united State of A.P. in recommending to issue licence duly stipulating certain conditions to CEC and the CEC in turn by File No.1-19/CEC/SC/2008-Pt.XXXII, dated 23.03.2012 filed petitions before the Apex Court recommended 185 saw mill cases subject to conditions of one time payment of Rs.10,000/- per vertical band saw and Rs.1,50,000/- for horizontal band saw and to be re-verified whether any of the unit found involved in any forest offence transported forest produce and saw timber without valid transit permit and not located in the prohibited area as defined in the Rules, 1969. Pursuant to the SLC constituted for the State of Telangana by Go.Rt No.203,dt.16.12.2016 and which are pursuant to the further orders of the Supreme Court,dt.05.10.2015, the SLC is empowered to take appropriate decisions without referring the cases to the CEC though it was done earlier in recommending to CEC. The case of the petitioner among others out of 185 matters are placed before the 13th SLC meeting and recommended with some conditions and

in turn the CEC filed before the Apex Court and thereby the Writ Petition is liable to be dismissed.

12. Pursuant to the above submissions, arguments on both sides heard in all the matters at length and perused the material on record.

13. The Apex Court subsequent judgment as also referred in the respective pleadings of the parties, particularly under category-I in matters relating to WBIs stated under Clause-1 that the SLCs for WBIs are subject to compliance with the prescribed guidelines and procedure authorized to take decisions regarding the grant of license/ WBIs permit and further under clause-(iv) held that any person aggrieved by the decision taken by the SLC may file appeal before the MOEFCC seeking appropriate relief within 60 days time and if for any reason, any person aggrieved by orders so passed in the appeal, he may prefer an appropriate petition/ application/ appeal before appropriate forum/ Court for grant of appropriate relief(s) including any application to file to condone delay in entertaining after sufficient cause shown. The resolution of the MOEFCC covered by G.O.No.3456(E), dt.11.11.2016 speaks that in compliance with the directions contained in the Order of the Supreme Court, dt.05.10.2015 in W.P.(Civil) No.202 of 1995 guidelines framed and stated the SLC concerned of the PCCF as Chairperson and representative of Regional office of Ministry of Environment, Forest and Climate Change(for short, 'EFCC'), a representative of State Forest Department not below the rank of a conservator of Forests dealing with preparation of Working Plans/ Working Schemes, Director/ Additional of Department of Industries, Representative of each autonomous District Council as per the provisions of the 6th Schedule to the Constitution, where such Council is in existence, representative of the Forest Development Corporation, in

case any such Corporation exists in the State and as a Conservator of Forests working in the Forest Headquarters to act as Member Secretary. Further Clauses 10 and 11 reads as *"10. Conditions governing operation of furniture units 1). The Establishment and operation of a furniture unit shall not require a License, (ii). A furniture unit (a) shall not use any band saw, or rip saw or a circular saw having more than thirty centimeter diameter (b) shall not convert round logs, (c) shall use only sawn timber sourced from licensed sawn mills or any other legitimate source, (d) In case the furniture unit is located within the premises of any wood based industry, approval of the Committee and the license for operation of furniture unit is required, (e) may use bamboos, reeds and canes and (f) and C-11. Records to be maintained by wood based industries i) Each wood based industry shall maintain and regularly update records as given in schedule to these guidelines.*

14. Clause-3 of the G.O.Ms.No.55 of the Telangana State Government, dt.26.09.2016 referred supra is dealing with restriction on establishment of WBIs which speaks as follows:-

> (1). No person shall install, erect or operate a Wood Based Industries without obtaining a license for such installation from the Licensing Authority.
>
> (2). No license for setting up fresh Wood Based industries, within a distance of 5kms, from the boundary of any Forest under the control of the Forest Department, whether notified or not shall be granted, except when it is required for Departmental use. However, such restriction would not apply within the limits of Municipal corporations and district headquarter.
>
> (3) The distance of 5 kms shall be computed from topo sheets as aerial distance as crow files,
>
> (4) Government may relax restriction of 5 kms as prescribed under Rule 3(2) in case of SEZ developed for Wood Based Industries.
>
> "Provided that nothing contained in this rule shall apply to ordinary operations of domestic carpentry or secondary units involved in the manufacture of handicrafts, furniture, packaging boxes, electronic items, toys, textile items etc., provided that such units do not use round timber and are involved only in the re-sawing of sawn timber procured from legal sources, using circular saw upto 12 inches in diameter or vertical saw not exceeding 18 inches in length.

15. G.O.Rt.No.203 issued by the Telangana Government dt.16.12.2016 supra at para-2 reiterates what the resolution of the MOEFCC in G.O.3456-E para-3 supra of constitution of SLC reiterated.

16. From this and from the counter affidavits referred supra, it is clear that whatever the powers earlier exercising by the CEC and SLC working in sending recommendations of the CEC for final decision given a go by and independently empowered the SLC, pursuant to the above undisputedly.

17. So far as no forest licence obtained for any saw mill or other WBI by 30.10.2002 and anything obtained after that before communication of the Apex Court order, dt.30.10.2002 in W.P.No.203 of 1995, brought under category No.12 undisputedly and after the SLC independently constituted, it is empowered to deal with.

18. The counter affidavits respectively also speak about 185 such units including some of those of the petitioners herein were recommended for consideration and stated already the CEC filed objections before the Apex Court. It is needful to say such applications filed are prior to the subsequent order of the Apex Court, dt.05.10.2015. Once pursuant to that resolution of the Central Government in G.O.Ms.No.3456, dt.11.11.2016 passed and SLC was constituted by G.O.Rt.No.203, dt.16.12.2016, there is no bar for its consideration if any. Besides that the Apex Court's order, dt.05.10.2015 referred supra refers to Category-I matters relating to WBIs and item No.12 therein is petition Nos.1708-1709, 2926 with 2912-2913 in W.P.(C) No.202 of 1995 showing the A.P.Saw Mill matters, it is mentioned as: '*I.As. ordered/disposed of on 25.10.2010: Report/Recommendation of the CEC in compliance of the order, dt.25.10.2010 passed by the Court directing the CEC to consider the application filed by the applicants before the CEC for grant of Saw Mill Licence*.

19. Even therefrom, the matters are to be placed by the DFO concerned of the applications of the petitioners in the 6 cases supra before the Telangana SLC either to take an independent decision or pursuant to the earlier recommendations and pursuant to the order of the Apex Court passed in this regard of the 185 units wayback in 2010 for CEC to take a decision further if necessary thereby without the need for going further into these facts.

20. Having regard to the above, these Writ Petitions are disposed of directing the DFO/the Licensing Authority concerned to place the pending applications of the petitioners' before the SLC in the next SLC meeting to be constituted to consider with reference to the above including pursuant to the Rules, 1969 substituted by the G.O.Ms.No.199, dt.03.08.1998 clause-3 also in relation to the distance of below or above 5 Kms to the Reserved Forest from the special provision for any of the applications of any of the petitioners are subsequent to that and not before. It is needless to mention pursuant to Rule 4 amended by said G.O.Ms.No.99 Rule 4 proviso, the deemed permission arises once there is no prohibition of any unit lying within 5KMs radius to the Reserved Forest and once there is a prohibition under the deemed permission the unit within 5 Kms radius cannot function in violation of rule 3 as deemed permission arises only when there is no violation of any of the Rules and licence viz; duly paid fees prescribed and filed documents appropriately, as the case may be.

21. Consequently, miscellaneous petitions, if any, pending shall stand closed.

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Dr. B. SIVA SANKARA RAO, J

Date:02.04.2018
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