

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

WRIT PETITION No.5957 of 2018

ORDER:

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

....to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus to consider the petitioner unit as re-issued or renewed the License No.3209/ 1993/ N2 dt.31/ 08/ 1996 as prayed for in the interest of justice and to pass such other.....”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Forests appearing for the respondents and perused the prayer in the writ petition with supporting affidavit and the other material on record.

3. The petitioner-M/ s.Satyanarayana Saw Mill, represented by its Proprietor, Sri V.Vishweshwar Rao, Kottapally Village, Makloor Mandal, Nizamabad District, maintained this writ petition against four respondents viz., 1. The State of Telangana, Rep. by its Prl.Secretary, Department of Environment, Forest, Science & Technology, 2. The Principal Chief Conservator of Forest, O/ o.PCCF & HoFF, Hyderabad 3. The District Forest Officer, Nizamabad and 4. State Level Committee (SLC) for Telangana State, Rep. by its Member Secretary & Addl.Prl.Chief Conservator of Forests (Production).

4. The averments in the affidavit filed in support of the writ petition vis-à-vis oral submissions of the learned counsel for the petitioner-Saw Mill are that the petitioner-Saw Mill was established in the year 1996 vide license No.3209/ 1993/ N2 dated 31.08.1996. After death of father of the proprietor of petitioner-Saw Mill, it remitted license fee vide challan No.2764 for the years 2000, 2001 and 2002 for renewal of saw mill license and as per the circular dated 24.11.1999 for the years 2000, 2001 and 2002. As per the Circular No.7/ 2013 dated 06.05.2013 issued by the Principal Chief Conservator of Forests, all the sawmills issued license before 30.10.2002 lapsed due to various reasons be allowed to issue/renew the licenses as reported by the Central Empowerment Committee (for short 'the CEC') and the petitioner-Saw Mill is eligible for consideration by the CEC. As per the instructions of the CEC dated 21.01.2007, File No.2-21/ CEC/ SC/ 2006-PT, III dt.09.05.2007 and report also submitted by the concerned District Forest Officer for consideration by the State Level Committee on 17.01.2014. However, no decision so far taken despite representations of the petitioner-saw mill even subsequently on 08.02.2017 for renewal and it has been remitting the license fee for renewal every year including with penalty upto the year 2016. The Supreme Court in W.P.No.202 of 1995 constituted

‘Central Empowerment Committee’ on 09.05.2002 and directed that all the issues relating to the sawmills, wood based industries be dealt with by such high level CEC. In the CEC meeting held on 20.1.2007, categorized saw mills and other wood based industries into 17 sub-categories starting from A-1 to A-17 depending upon their nature of the issues involved along with specific recommendations covered by Circular No.7/2013 dated 06.05.2013 issued by the Forest Department of the then State of Andhra Pradesh. As per the guidelines of the Government of India, the Government of Telangana constituted the State Level Committee on 16.12.2016 vide G.O.RT.No.203, dated 16.12.2016, to perform all the responsibilities of issuance of licenses and renewal of licenses of sawmills/ wood based industries, which is under the Chairmanship of the Principal Chief Conservator of Forest (2nd respondent) and despite several representations for renewal of license as per the directions of the CEC already given no decision so far taken, thereby constrained to file this writ petition with the prayer supra.

5. The Format-D (for Sawmills) (Revised) issued by the Government of Andhra Pradesh, Forest Department in Rc.No.3418/ 2012/ M5 dated 05.10.2013 with enclosure of said format in saying District Forest Officer, Nizamabad, requested to submit remarks in this matter by 10.10.2013

speaks sending of petitioner-Saw Mill in the required format for renewal and there are remarks/recommendations at columns 14 and 15 saying petitioner-Saw Mill was established in 1996 and granted license by the District Forest Officer on 31.08.1996 and this is one such saw mill established prior to 31.10.2002, though there is no record and remittance during 1997, 1998 and 1999, there is proof of remittance of Rs.3,000/- by challan dated 24.11.1999 for the years 2000, 2001 and 2002 for renewal of saw mill license and as per the Circular No.7/2013 dated 06.05.2013, the case of the petitioner-sawmill comes under category A-3-1. Accordingly, proposals are submitted and the recommendations are sawmill established prior to 2002 eligible for consideration of CEO. Hence, proposal forwarded. It was dated 17.11.2014 by the District Forest Officer, Nizamabad and signed by respondent No.3-Additional Principal Chief Conservator of Forstrs/ Conservator of Forests on 07.02.2014. So far as A-3-1 category concerned, the Circular No.7/2013, dated 06.05.2013 referred supra, speaks that sawmills established prior to 30.10.2002 come under deemed lapse of license on account of not filing renewal application in time, not paying renewal fee in time and not furnishing timber account as per Section 6(1), 6(2) and 6(3) of A.P.Sawmill Rules, D.F.O. did not recommend to sanction license for the reason of

A.P.Sawmills Rules read with Hon'ble Supreme Court orders prohibits sanction of fresh license are eligible for consideration by the C.E.C. (4th S.L.C. , dated 20.01.2007, C.E.C., File No.2-21/ CEC/ SC/ 2006-Pt.II, dated 09.05.2007.

6. There is no dispute on the above aspects including from the learned Government Pleader for Forests but for to say it is only the State Level Committee that has to take a decision in the next sitting or such other sitting as the case may be. Even writ petition affidavit averments of para-14 also speaks the State Level Committee constituted by the Government of Telangana on 16.12.2016 vide G.O.RT.No.203 dated 16.12.2016 has to take decision.

7. Having regard to the above, this Writ Petition is disposed of directing respondent No.3-District Forest Officer to forward application of the petitioner-sawmill for renewal of license to the State Level Committee headed by respondent No.2-Principal Chief Conservator of Forest, as Chairman, for its consideration on own merits in the next State Level Committee.

8. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 22.02.2018
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