

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.29551 of 2016

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for respondent Nos.1 to 5.

The prayer in the writ petition is as under:

“... to issue an order or direction or an appropriate writ more particularly in the nature of writ of mandamus directing the respondents to take immediate action to grant license to the petitioner's sawmill M/s. Samad Saw Mill cum depot expeditiously with consequential benefits and pass such order or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The facts of the case are that the petitioner's saw mill was granted licence bearing No.2 vide proceedings RC.No.2879/N2/90 dated 01.03.1990 by the 5th respondent valid with effect from 01.03.1990 to 29.02.1991 and the same was being renewed every year till 1996. A show cause notice was issued to the petitioner in the year 1996 for confiscation of the timber and saw mill. Challenging the said show cause notice the petitioner filed W.P.No.6588 of 1997 before this Court. This Court, on 16.06.1997, was pleased to quash the said show cause notice and allowed the writ petition. In spite of the same, another show cause notice was issued to the petitioner in the month of February, 1997. The petitioner filed another writ petition being W.P.No.4301 of 1997 and the said second show cause notice was also quashed by this Court. Subsequently, a third show cause notice dated

04.08.1997 was issued thereby the petitioner was constrained to file W.P.Nos.8382 and 2038 of 1997 and the said two writ petitions were allowed on 28.03.1998 and the said judgment was upheld by a Division Bench of this Court vide order dated 17.11.1998 in W.A.No.1655 of 1998. Thereafter, the petitioner applied for renewal of licence to run the sawmill under the rules as were made applicable in 1998 and the same was rejected on 24.11.1998 by the 5th respondent on the ground that certain criminal cases were registered against the petitioner and also for non-submission of certain documents. Questioning the same, W.P.No.7476 of 1999 was filed seeking a direction to the respondents therein to consider his application for grant of saw mill licence and the said writ petition was disposed of on 03.04.1999 with a direction to the respondents to consider his application for grant of licence inasmuch as it was not considered on merits. In spite of the specific directions issued by this Court by orders dated 26.11.1999, the 5th respondent rejected the saw mill licence. Again the petitioner filed W.P.No.26864 of 1999. After hearing, the said writ petition was allowed directing the respondents to grant saw mill licence. The said order was challenged by the respondents therein vide W.A.No.42 of 2003. A Division Bench of this Court by order dated 27.03.2003 upheld the action of the respondents in rejecting the petitioner's application for grant of licence in view of pendency of the criminal cases against him. It is also stated

that the petitioner was acquitted in criminal cases being C.C.Nos.30 of 2002 and 130 of 2003 on 22.09.2006 and 31.07.2015 respectively. After acquittal, the petitioner made an application on 07.08.2015 before the respondents requesting them to grant the licence. However, no orders were passed. Questioning the said inaction, the petitioner filed W.P.No.36192 of 2015 before this Court. By orders dated 10.12.2015 this Court directed the respondents to consider the application dated 07.08.2015 within a period of three weeks from the date of receipt of a copy of the order and communicate the same to the petitioner. Since the 5th respondent has not considered the petitioner's application, he filed contempt case being C.C.No.433 of 2016. Pursuant thereto, the 5th respondent by his proceedings RC.No.4439/1996/N2(i) dated 09.03.2016 communicated to the petitioner on 31.06.2016 that for any confiscated saw mills or any lapsed saw mills or for that matter of renewal of any non-existing and disputed saw mill licences, the Central Empowered Committee constituted by the Hon'ble Supreme Court is only empowered to grant licence or to renew and also informed the petitioner that his application for renewal of saw mill licence will be placed before the Central Empowered Committee through the State Level Committee for taking further necessary action. As the matter is being delayed, the present writ petition is filed.

This Court on 14.12.2017, after hearing the learned counsel for the petitioner as well as the learned Government Pleader, passed the following order:

“Heard learned counsel appearing for the petitioner. Perused the earlier order including the proceedings in Rc.No.4439/1996/N2(i), dated 09.03.2016 of the Divisional Forest Officer, Nizamabad, whereby the petitioner is informed as follows:

“In accordance with directions in W.P.No.36192 of 2015 considering the representation of Sri H.A.Samad R/o. Nizamabad, since the said sawmill is closed from 1996 onwards till today, as such, the Divisional Forest Officer, Nizamabad is not empowered to renew the sawmill licence, since the orders of the Hon’ble Supreme Court of India are in force.

It is further informed that, regarding any confiscated sawmills, any lapsed sawmills or for that matter for renewal of any non-existing and disputed sawmills licences, the Central Empowered Committee constituted by the Hon’ble Supreme Court of India is only empowered.

In view of the above, your request for renewal of saw mill of M/s. H.A. Samad Saw Mill situated at Linegally, Nizamabad will be placed before the Central Empowered Committee through State Level Committee for taking further necessary action.”

Learned counsel for the petitioner would submit that despite the said proceedings, no further action is taken in the matter though a long time has elapsed.

Learned Government Pleader for Forests appearing for the respondents 1 to 5 submits that subsequent to the judgment of the Supreme Court, there is a change in the procedure and as directed in the judgment of the Supreme Court, dated 05.10.2015, a State Level Committee is constituted and that the petitioner has to approach the State Level Committee for doing the needful in the matter.

The proceedings, which are referred to supra, as pointed out by the learned counsel indicate that the request of the petitioner/saw mill is pending with the concerned authority. Now, the concerned authority instead of forwarding the application to the Central Empowered Committee must forward the same to the State Level Committee, in the considered view of this Court.

Therefore, the Divisional Forest Officer/5th respondent is directed to forwards the request of the petitioner for renewal of sawmill licence to the State Level

Committee within two weeks from the date of receipt of a copy of this order for appropriate consideration by the State Level Committee. The State Level Committee on receiving the application from the 5th respondent shall consider and dispose of the same in its next meeting as and when scheduled.

List after Pongal Vacation, 2018.”

During the course of hearing, the learned Government Pleader produced a copy of the proceedings in RC.No.4439/2017/F5 dated 01.03.2018 addressed by the Forest Divisional Officer, Nizamabad, to the District Forest Officer, Nizamabad, wherein it is mentioned that as per the directions of this Court dated 11.07.2017, Form-D proposal in respect of Samad Sawmill has been prepared and the same is submitted herewith for onward submission to the State Level Committee for further course of action. Placing on the same, the learned Government Pleader would submit that since the application for renewal of saw mill licence was already forwarded to the State Level Committee, the same will be looked into by the said Committee in the next ensuing meeting (since the Committee sits once in three months) and consider the same and pass appropriate orders as per law.

Taking into consideration the submission made by the learned Government Pleader and the material on record, the 2nd respondent is directed to consider the application for renewal of petitioner's saw mill licence in the next ensuing meeting and pass appropriate orders as per law.

With the above direction, the writ petition is disposed of.
No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

P. KESHAVA RAO, J

Date: 20.04.2018.
ES

