

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13694 of 2016

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M/s Bindeshwari Singh Saw Mills, Barachakia, East Champaran, through proprietor Chandeshwar Singh, S/o Late Bindeshwari Singh resident at Barachakia, P.S. Chakia, District East Champaran, Motihari

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Forest Department, Govt. of Bihar, Patna.
2. The Principal Chief Conservator of the Forest, Bihar, Patna
3. The Regional Conservator of the Forest, Muzaffarpur
4. The Commissioner, Tirhut Division, Muzaffarpur, District-Muzaffarpur
5. The Chief Conservator of Forest, Siwan, Dist- Siwan
6. The Divisional Forest Officer, Motihari, Forest Division Cum Licensing Officer, Motihari

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Pandey, Mr. Rishikesh Ojha
For the State	:	Mr. Anil Kumar Singh, G.P.-26

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 10-05-2019

Heard the learned counsel for the petitioner and the State.

The instant writ petition has been filed for issuance of writ in the nature of Mandamus for renewal of license of Saw Mills of petitioner in pursuance of application dated 03.05.2016 along with Bank Draft and for direction to the respondents to include the name of petitioner in the seniority list of Ara Mills,



Distt- Motihari as other similarly situated persons have been included in pursuance of the notification dated 30.08.2010.

Learned counsel for the petitioner has submitted that earlier father of petitioner had submitted application for license of the Saw Mills in the name of M/s Bindeshwari Singh Saw Mills at Barachakia, East Champaran, Motihari, after completion of the due formality for grant of license of the Saw Mills. Subsequently, respondent issued License No. 378/99 as M/s Bindeshwari Singh Saw Mills showing father Bindeshwari Singh as proprietor. Father of petitioner was discharging duty to the satisfaction of authority concerned and his license was renewed as per the regulation of Saw Mills.

Father of petitioner had submitted application along with affidavit dated 26.10.2007 before the Licensing Authority-cum-D.F.O., East Champaran, Motihari stating that he is owner of the Saw Mills. He has become aged and is not able for discharging works of Ara Mills. Therefore the works of the Saw Mills shall be made by his two sons, namely, Chandeshwari Singh and Ram Chandra Singh. He has further submitted that from 26.10.2007 all the responsibility regarding Bindeshwari Singh Saw Mill will be of his two sons. Copy of the Affidavit dated 26.10.2007 is annexed as Annexure-2.



Father of petitioner died on 07.11.2007 and got death certificate on 14.11.2007. Thereafter both sons of Bindeshwari Singh filed joint application before the respondents Licensing Authority-cum-D.F.O., Motihari to replace their name in place of their father in License No. 378 of 1999. Thereafter the respondent Licensing Authority took decision and renewed the License as M/s Bindeshwari Singh Saw Mills, Barachakia, East Champaran in the name of Chandeshwari Singh and Ram Chandra Singh as son of late Bindeshwari Singh till 2008. Petitioner submitted application with renewal fee each and every year till 2016. License of petitioner was renewed since 2008 to 2015.

The petitioner filed petition for renewal of his license on 10.11.2015 along with Bank Draft of Rs. 1,000/- for the year 2016. The respondent/D.F.O. kept the application of petitioner along with Bank Draft and informed the petitioner vide Memo No. 662 dated 19.04.2016 (Annexure-5) that his Bank Draft has not been encashed. The encashment period has lapsed. The respondent/D.F.O. directed the petitioner to submit Bank Draft after renewal of the date of Bankdraft, thereafter his license was proposed to be renewed for the year 2016. Petitioner has submitted application on 03.05.2016 in compliance of letter Memo No. 662 dated 19.04.2016 after renewal of the Bank Draft dated



10.11.2015 but the same is still pending for due consideration.

Licence of the Saw Mill of petitioner has not been renewed.

Learned counsel for the petitioner has submitted that in the instant writ petition after death of father of petitioner on 11.07.2007, he has filed application before the respondent authority for renewal of license in their favour as successor of Late Bindeshwari Singh, who was proprietor of License No. 378/1999. After considering the application of petitioner, License No. 378/1999 was renewed from 2008 to 2015 in the name of petitioner. No complaint was ever made by the Licensing Authority. The respondent suddenly issued letter stating that proprietor of the Saw Mills have already died and license has been renewed in the name of his successor but vide Memo No. 897 dated 30.05.2016, Conservator of Forest, Siwan Anchal, Siwan informed that he is seeking direction about renewal of the license to the successor of license holder after lapse of 8 years.

Learned counsel for the petitioner has submitted that as per resolution bearing no. 2675 dated 30.08.2010 it is clear that transfer of the Saw Mill license by inheritance has been accepted.

Counter Affidavit has been filed on behalf of the State mentioning therein that in terms of order of Hon'ble Supreme Court dated 29.10.2002 passed in WP (C) No. 202 of 1995



restriction has been imposed on issuance of new license to any wood based industries. It was held that new license shall be issued after obtaining approval of Central Empowered Committee, New Delhi. Thereafter by letter no. 682 dated 20.02.2013 of Environment and Forest Department, Govt. of Bihar, the opinion of Central Empowered Committee was sought regarding renewal of license in name of successor on death of original license holder. Opinion of Central Empowered Committee was not received in this regard. Copy of aforesaid letter no. 682 dated 20.02.2013 is annexed as Annexure-A to the Counter Affidavit.

This Court finds that there is clear mention in Resolution of the State Government bearing no. 2675 dated 30.08.2010 that there is provision of transfer of license in the name of successor after death of the original licensee. In para 3(1)(vii)(k) of the said resolution, decision has been taken to include the Saw Mills whose licence has been transferred in cases of inheritance. Licence of Saw Mill bearing No. 378 of 1999 was running in the name of father of petitioner till 2007. Thereafter license was renewed in the name of petitioner since 2008 to 2015. Copy of death certificate dated 14.11.2007 and renewal of licence in the name of petitioner from 2008 to 2015 is annexed as Annexure-3 and 4 series. Thereafter petitioner submitted application for renewal of his



licence for the year 2016 along with Bank Draft of Rs. 1,000/-, but license of petitioner has not been renewed. Only a letter dated 04.03.2017 was received by the petitioner, which is annexed as Annexure-10 to I.A. No. 1997 of 2017 stating that the Demand Draft filed by him is being returned.

Learned counsel for the petitioner has submitted that this Court in C.W.J.C. No. 13711 of 2016 dated 13.02.2019 has directed the authority to not suspend the license of petitioner till the guidelines are received from the higher authority. The licence has already been issued in the name of petitioner after death of his father.

In the instant writ petition petitioner has stated that after death of his father on 07.11.2007 licence has been renewed in their favour as successor from 2008 to 2015. This statement has not been denied by the State in the Counter Affidavit. Thereafter petitioner applied for renewal of licence for the year 2016 along with Demand Draft of Rs. 1,000/-, which has been returned by the respondents without any valid reason. The respondent by letter no. 243 dated 04.03.2017, which is annexed as Annexure-10 to I.A. No. 1997 of 2017, has returned the Demand Draft of the petitioner. The petitioner has filed application for renewal of licence along with Demand Draft of Rs. 1,000/- on 03.05.2016 as mentioned in



Annexure-6 series. Department has not taken any decision on the aforesaid application filed by the petitioner for renewal of licence.

Learned counsel for the petitioner has submitted that he is also entitled for fixing the seniority list of his Saw Mill after death of his father. Saw Mill of petitioner is at Serial No. 40, since it was fixed at that time.

It is submitted in para 6 of Counter Affidavit that seniority list of the licensed Saw Mills of Motihari district has been published by Office Order No. 35 of Principal Chief Conservator of Forest, Bihar. Name of License No. 378 of 1999 has been included in the seniority list at Serial No. 40. The owner of the Saw Mill in the seniority list is Bindeshwari Singh, who is father of petitioner, who has expired on 07.11.2007.

This Court finds that after renewal of licence in the name of petitioner from 2008 to 2015 as successor after death of his father on 07.11.2007, he is entitled for same place in the seniority list.

In such circumstances, respondent no. 1 is directed to pass appropriate order on the application filed by the petitioner dated 03.05.2016 (Annexure-6) for grant of licence along with fixing the position in seniority list, within a period of one month from the date of receipt/production of copy of this order.



This writ petition is accordingly disposed off with direction made above.

In the event Respondent No. 1 does not pass order within a period of one month from the date of receipt/production of copy of this order, petitioner will be entitled to take appropriate action in accordance with law.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	N.A.
Uploading Date	21.05.2019
Transmission Date	

