

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17905 of 2016

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Ashok Kumar Singh, son of S.D. Singh, Resident of Mohalla- Gaushganj, P.S.
Ara Town, Distt.- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Environment and Forest, Patna, Bihar.
2. The Principal Chief Conservator of Forest, Bisweswaraiya Bhawan, New Secretariat Patna, Bihar.
3. The Conservator of Forest, Aranaya Bhavan, Beli Road, Patna, Bihar.
4. The Divisional Forest Officer, Bhojpur Division, Ara.
5. The Ranger Officer, Ara Bhojpur Division, Forest Office, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Nath Sinha, Advocate
For the Respondent/s	:	Mr. Chitranjan Sinha, PAAG-2
		Mr. Shaileendra Kumar, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 16-05-2019

Petitioner has prayed for issuance of appropriate writ in the nature of *mandamus* directing the respondents to accept the Bank Draft for renewal of licence, which he has supplied.

It has been submitted on behalf of the petitioner that he was operating Saw Mill at respective places since 1990. The department never informed either through Post or through *Amin* for deposit of licence fee. When he got information, he immediately deposited license fee along with fine on 05.11.1996, which was duly received by the department. Xerox copy of the



letter dated 05.11.1996 is annexed as Annexure-3 to the writ application.

It is submitted that Bihar Saw Mill (Regulation) Act, 1993 was amended in 1993. The petitioner after depositing the amount by Bank Draft on 05.11.1996, again deposited money for license in the year 1997 and also in the year 1990, 1994, 1995, 1997 along with late fine, which was also received by the department. Thereafter, the petitioner kept on depositing license renewal fee and the same was duly received by the department from 1997 onward. Xerox copy of the deposit of draft and receiving are annexed as Annexure- 5 series.

Petitioner has submitted that as per proviso of Section 5 of the Bihar Saw Mills (Regulation) Act, for the period of thirty days and thereafter the period during which the application is pending for consideration, it shall be deemed as if such person was granted a license under this Act and he was operating the saw mill or saw pit accordingly.

Counsel for the State submits that it was mandatory on the part of the petitioner to first submit license fee as prescribed under Section 5 of the Bihar Saw Mills (Regulation) Act, 1990, then he can take advantage of proviso of Section 5.



For brevity, section 5 of the Bihar Saw Mills (Regulation) Act, 1990, is quoted below.

“5. Application for licence. - On and from the appointed day:-

(a) no person shall establish a saw mill or a saw pit except under the authority and subject to the conditions of a licence granted in that behalf under this Act;

(b) no person shall operate a saw mill or a saw pit in existence on the said date, unless he is granted a licence in that behalf under this Act on an application made by such person within a period of thirty days from such date:

Provided that for the period of thirty days and thereafter the period during which the application is pending for consideration, it shall be deemed as if such person was granted a licence under this Act and he was operating the saw mill or saw pit accordingly.”

Counsel for the respondents submits that petitioner cannot be granted benefit of proviso of aforesaid section since he has deposited the fee beyond the stipulated period of thirty days.

This Court finds that it has been stated in para 6 of the Counter Affidavit that petitioner has admitted that he had applied for license on 05.11.1996.

Section 5 of the Act is very clear that no person shall operate a Saw Mill or a Saw Pit in existence on the date, unless he is granted a license in that behalf under the Act on an application made by such person within a period of thirty days from such date.

It is admitted position that petitioner had not applied for license within the stipulated period of thirty days in the year 1993.



The petitioner had applied for license on 05.11.1996, which is much beyond the stipulated period of thirty days.

Therefore, the petitioner cannot claim advantage of deemed proviso of Section 5 of the Act.

The writ application is, accordingly, dismissed.

Counsel for the petitioner submits that he may be given liberty to approach the Committee headed by the Principal Chief Conservator of Forest, Bihar, to raise his grievance.

Counsel for the State has no objection to such prayer made on behalf of the petitioner.

Under such circumstances, this writ application is dismissed with liberty to the petitioner to file necessary representation before the Committee headed by the Principal Chief Conservator of Forests, Bihar, along with relevant documents.

The Principal Chief Conservator of Forests, Bihar, will pass appropriate order in accordance with law within a period of three weeks from the date of filing of the representation by the petitioner after giving proper opportunity of hearing and looking into all the documents filed by the petitioner. The petitioner will file necessary representation within a period of one month from the date of this order.



This writ application is, accordingly, dismissed with observation made above.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
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