

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6053 of 2016

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Ajaya Kumar Shahi, son of late Shatrumardan Shahi, resident of Village-
Belbanwa, P.O. & P.S.- Yogapatti, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Chief Conservator of Forest, Bihar, Patna.
3. The District Magistrate, West Champaran, Bettiah.
4. The Designated Officer-cum-Chief Conservator-cum-Regional Director,
Balmiki Tiger Project, Division-I, West Champaran, Bettiah.
5. The Licensing Authority-cum-Divisional Forest Officer-cum-Dy. Director,
Balmiki Tiger Project, Division – I, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava, Advocate. Mr. Santosh Bharti, Advocate. Ms. Anu Priyadarshni, Advocate.
For the State	:	Ms. Jahan Ara, A.C. to G.P. 14

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 10-04-2019

1. Heard learned counsel for the petitioner and
learned counsel for the State.

2. Learned counsel for the petitioner has sought
indulgence of this Court for issuance of writ in the nature of
certiorari for quashing the order dated 22.02.2016 bearing letter
No. 420 (Annexure-6) issued by respondent No. 5 by which the
renewal of licence of Saw Mill of the petitioner has been
suspended. Petitioner also prayed for issuance of writ in the
nature of certiorari for quashing the order dated 22.02.2016
bearing letter No.420 (Annexure-6) issued by respondent No. 5



in complete departure of the order dated 26.6.2014 (Annexure-5) passed in Misc. Appeal No. 06 of 2014.

3. Counsel for the petitioner submits that M/s. Rajendra Timber Stores was established and the respondent No. 5 after following due process of law granted Saw Mill licence in favour of M/s. Rajendra Timber Stores bearing licence No. 08 of 1998. The licence of Saw Mill of the petitioner was renewed from time to time. The renewal of licence was made in the year 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014 and 2016. Photocopy of renewal of licence of Saw Mill of the petitioner has been enclosed as Annexure-1 series.

4. The licence of Saw Mill of petitioner was suspended by the respondent No. 5 by office order No. 35 dated 14.07.2012. The said order was challenged before the respondent No. 4 by filing appeal as Misc. Appeal No. 3 of 2012 wherein the Appellate Authority has ordered for renewal of licence of the petitioner in accordance with law. The order of the Appellate Authority passed in Misc. Appeal No.03 of 2012 has been enclosed as Annexure-2.

5. Petitioner is aggrieved by order as contained in Annexure-4, by which, the District Forest Officer cum Chief Conservator of Forest has directed by order dated 7.4.2014



(Annexure-4) to renew the licence of the petitioner in the name of firm. The petitioner has challenged the aforesaid order vide Annexure-5 before the respondent No. 4 i.e. the Designated Officer-cum-Chief Conservator-cum-Regional Director, Balmiki Tiger Project, Division –I, West Champaran, Bettiah, who has affirmed the order as contained in Annexure-4.

6. Counsel for the petitioner submits that in the order as contained in Annexure-5 it is mentioned that there is no issue of change of ownership of the firm, but, respondent No. 4 without considering the case of the petitioner, has ordered to renew the licence in the name of firm. Counsel for the petitioner further submits that respondent No. 5 (Licensing Authority-cum-Divisional Forest Officer-cum-Dy. Director, Balmiki Tiger Project, Division-I, West Champaran, Bettiah), has observed in his order dated 7.4.2014 that brother of petitioner namely Sri Ranvijay Singh has already died in the year 2009. The two sons of late Ranvijay Shahi, namely, Arindam Shahi and Shatrundam Shahi have already filed 'No Objection Certificate' for renewal of licence in favour of the petitioner. They have made request for renewal of licence of the petitioner but respondent No. 5 without considering the aforesaid request has ordered that licence would be renewed in favour of the firm. He further submits that licence



of the petitioner right from the period 1998 to 2005 was already renewed in the name of firm and till 2016 the licence was renewed showing the petitioner as Proprietor of the firm.

7. Counsel for the petitioner submits that there is no objection raised by anybody with respect to change of Proprietorship. The petitioner has applied for licence on behalf of the firm which will be apparent from Annexure-D and E filed on behalf of the State and licence has been renewed in the name of firm. The name of petitioner has been included on behalf of the firm.

8. The State has filed counter affidavit stating in paragraph-9 that there is confusion regarding ownership of the Saw Mill between the Managing Director of the companies and other partners. As the matter relates to civil jurisdiction, the Licensing Officer preferred compliance of Rule 3 and therefore, the application for renewal of licence filed by Ajay Kumar Shahi for the year 2012 was suspended vide order No. 35 bearing Memo No. 1668 dated 17.7.2012 of the Licensing Officer. Thereafter, the appellant preferred Misc. Appeal No. 03 of 2012 before the Prescribed Authority-cum-Conservator of Forests-cum-Field Director, Valmiki Tiger Reserve, West Champaran, Bettiah, and vide Memo No. 1050 dated 24.11.2012 the



Prescribed Authority has revoked the license of the Saw Mill vide order dated 17.7.2012 passed by Licensing Officer finding improper to suspend the licence of the Saw Mill in the name of the company as M/s. Rajendra Timber Stores, Belbanwa, Yogapatti, West Champaran. In compliance of the aforesaid order, the licence of the Saw Mill for the year 2012 was renewed in the name of M/s. Rajendra Timber Stores, Belbanwa, Yogapatti, West Champaran, which has been enclosed as Annexure-1/F to the counter affidavit.

9. It is mentioned in paragraph-10 of the counter affidavit that licence of the Saw Mill has always been renewed in the name of the company as “Dumariya Estate Enterprises Pvt. Ltd., West Champaran M/s. Rajendra Timber Stores” and no license in individual capacity has been issued.

10. Counsel for the petitioner submits that he is not disputing that licence has been issued in the name of firm. The name of petitioner also found mentioned in the licence on behalf of the firm. This fact will be apparent from Annexure-D and E of the counter affidavit filed on behalf of the State.

11. Counsel for the petitioner has pointed out Annexure-C to the counter affidavit which is letter sent by the petitioner to the District Forest Officer-cum-Dy. Director stating



that there is no division of firm. The Saw Mill is run by the petitioner. Petitioner is Proprietor of the firm which can also be verified from the licence issued from the office of the respondent.

12. In such circumstances, on the basis of submission made by the petitioner and the Annexure-D and E filed by the State in the counter affidavit, this Court finds that at no point of time, any dispute has arisen with regard to change of Proprietorship or any division of the firm. The respondent No. 5 in order dated 7.4.2014 has observed that brother of this petitioner namely, Ranvijay Shahi has died in the year 2009 and his two sons namely, Arindam Shahi and Shatrundam Shahi had filed 'No Objection Certificate' making prayer to renew the licence of Saw Mill in favour of the petitioner.

13. In such circumstances, the respondents have no right to cause disturbance by suspending the licence of the petitioner on the ground the same will be issued only in the name of firm.

14. As per submission of the petitioner, the licence has already been issued in the name of firm. The petitioner has always been applying for renewal of licence on behalf of the firm.



15. Therefore, the order as contained in Annexure-6 is hereby set aside. The respondent No. 5 is directed to issue licence in the name of petitioner representing “M/s. Dumariya Estate Enterprises Pvt. Ltd., West Champaran M/s. Rajendra Timber Stores, Belbanwa, Yogapatti, West Champaran, Bettiah. From Annexure C and D of counter affidavit it is apparent that earlier the licence was issued in the name of petitioner representing the aforesaid firm. The respondent No. 2 will pass appropriate order in terms of the direction of this Court within a period of one month from the date of receipt/production of a copy of this order.

16. This writ petition is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	17/04/2019
Transmission Date	

