

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4289 of 2016

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M/s Kailash Saw Mill, Bajitpur, P.S. Manigachhi, District Darbhanga, a proprietorship firm through its proprietor Mithilesh Thakur Son of Late Lakhandeo Thakur, Resident of Village - Bajitpur, P.S. - Manigachhi, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Environment & Forest Department, Govt. of Bihar, Patna
2. The Principal Chief Conservator of Forest, Bihar 4th Floor, Technology Bhawan, Bailey Road, Patna.
3. The Commissioner - cum - Chairman, Selection Committee of Saw Mills, Darbhanga Division, Darbhanga.
4. The Conservator of Forest, Muzaffarpur Circle, Muzaffarpur.
5. The Divisional Forest Officer, Mithila Forest Division.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinay Mistry, Advocate
For the Respondent/s : Mr.Sarvesh Kr. Singh A.A.G.-13

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 07-03-2019

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

This writ petition has been filed for issuance of a writ in the nature of *certiorari* for quashing of Annexure-4 issued by the Selection Committee of Saw Mills whereby the petitioner has been placed at bottom within the Seniority list of Saw Mills of Darbhanga in terms of Resolution No. 2675 dated 30.8.2010 issued by the Department of Environment & Forest, Government of Bihar.

Learned counsel for petitioner has submitted that his



name has not been illegally included in the final seniority list as contained in Annexure-4. The petitioner, in term of Bihar Saw Mills (Regulation) Rules, 1993 applied for grant of license on 28.2.1994 and the same is still pending for consideration for grant of license before the Licensing Authority. The petitioner subsequently submitted application for renewal of the application from 1995 to 2016 and the same is still pending for consideration.

The State has appeared and filed the counter affidavit which is taken on record. It has been averred in the counter affidavit that there is statutory provision of appeal under Section 12 of the Bihar Saw Mills (Regulation) Act, 1990 and Rule 9 of the Bihar Saw Mills (Regulation) Rules, 1993 and petitioner has not filed any appeal against the aforesaid seniority list as contained in Annexure-4.

Learned counsel for the petitioner submits that it is asserted in paragraph nos. 16 and 17 of the writ petition that petitioner is running his Saw Mills in terms of Notification No. 1315 dated 23.5.2011 whereby the State has constituted an Expert Committee for fresh survey of availability of timber and also the fixing of number of Saw Mills in the State. The petitioner is entitled to run his Saw Mills as the petitioner is



deemed to be licensee in terms of Section 5(b) of Bihar Saw Mills (Regulation) Act, 1990 as well as in terms of Clause 3(1) (ii) of the Resolution No. 76/2007-2675 dated 30.8.2010 issued by the Department of Environment and Forest, Government of Bihar.

The State, in reply to the aforesaid statements made in the writ petition, has submitted that in paragraph no. 25 of the counter affidavit the Hon'ble Supreme Court vide order dated 29.10.2004 in Interlocutory Application's filed in WP© No. 202 /95 held that the benefit of deemed provision shall be granted to such applicants who have applied for license within thirty days from the date on which Bihar Saw Mills (Regulation) Rules, 1993 came into force. In para 3(1)(iii) of the resolution dated 30.8.2010 (Annexure 4 to the writ petition), the provision for benefit of deemed provision has been made for applicants who deposited application for license within 30 days from 04.09.1993. The petitioner has himself admitted in para 6 of the writ petition that he submitted his application for license on 28.2.1994. Hence, the question of him being a deemed licensee is misconceived and not tenable. It has further been averred in the counter affidavit that as per observation made by the Central Empowered Committee in its report dated



09.03.2012, the names of the Saw Mill Owners who had not obtained license under the Bihar Saw Mills (Regulation) Act, 1990 were required to be removed from the seniority list prepared and published by the Committee under the Chairmanship of Divisional Commissioner. Hence, the State Government, vide resolution no. 2563 dated 16.8.2012, issued the guidelines for finalizing the seniority list of Saw Mills after removing the names of unlicensed Saw Mills from the list prepared by the Committee under the Divisional Commissioner. Since the unlicensed Saw Mills in the finalized seniority list were required to be removed from the list, a decision was taken that, before removing their names from the lists, an opportunity should be given to them to produce a license, in case it had been issued to them under the Bihar Saw Mills (Regulation) Act, 1990. Hence, a notice was published in newspapers giving an opportunity to unlicensed Saw Mills owners to produce a license for their Saw Mill in case it has been issued to them.

In pursuance of the aforesaid notice, number of objections/ representations were received in the office of the Principal Chief Conservator of forests, Bihar. These objections/representations were considered by the Committee under the Chairmanship of Principal Chief Conservator of



Forests, Bihar which was constituted by the resolution dated 16.8.2012. After disposal of these objections/representation, the seniority lists of the Saw Mills have been finalized and issued for every district of the State of Bihar .

In pursuance of the notice issued in newspaper, a representation was filed by the petitioner which was duly considered by the Committee under the Principal Chief Conservator of Forests, Bihar in its meeting held on 12.9.2012. Since no license was issued to the petitioner under the Bihar Saw Mills (Regulation) Act, 1990, his claim to include his name in the seniority list of the Saw Mill was rejected by the Committee. Photocopy of the Minutes of meeting held on 12.9.2012 has been annexed as Annexure R-5 to the counter affidavit.

Since there is statutory provision of appeal as provided under Section 12 of the Bihar Saw Mills (Regulation) Act, 1990 and Rule 9 of the Bihar Saw Mills (Regulation) Rules, 1993 against the seniority list as contained in Annexure-4, this Court does not intend to give any opinion with regard to the merit of the claim of both parties.

In such circumstances, this writ petition is, accordingly, disposed of with direction to the petitioner to file appeal before



the competent authority (Conservator of Forests, Muzaffarpur) within a period of one month from the date of receipt of this order. The Appellate Authority will pass final order on the appeal filed by the petitioner after affording him proper opportunity of personal hearing and looking into all the relevant documents as well as the pleadings of the parties as made in this writ petition and the counter affidavit, within a period of four months from the date of filing of the appeal.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	14.3.2019
Transmission Date	

