

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7904 of 2016

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Rajesh Kumar Sharma Son of Late Yogendra Sharma Resident of Kaurihar
Chowk, Block Road, P.S. - Raxaul, District - Raxaul.

... .. Petitioner/s

Versus

1. The State Of Bihar through Commissioner-cum-Principal Secretary,
Department of Forest & Environment, Govt. of Bihar, Patna.
2. The Principal Chief Conservator of Forest, Department of Forest and
Environment, Bihar, Patna.
3. The Regional Chief Conservator of Forest, Tirhut Forest Division,
Muzaffarpur.
4. The Licensing Authority-cum-Divisional Forest Officer, Motihari Forest
Division, District East Cham
5. The Ranger of Forest, Raxaul, District - East Champaran.
6. The Forester, Raxaul, District East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar
For the Respondent/s : Mr.Smt. Geeta Kumari- Gp28

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 18-04-2019

Heard the learned counsel for the petitioner and the
State.

The instant writ petition has been filed for setting aside
the order as contained in Memo No. 203 dated 20.02.2016
(Annexure-11), passed by the Licensing Officer-cum-Divisional
Forest Officer, Motihari, by which he has refused to renew the
License no. 393/99 of the Saw Mill of petitioner firstly on the
ground that the petitioner did not submit his original license,
secondly his license has already been cancelled and further license



cannot be renewed in view of letter no. 2185 dated 09.09.2011 issued by the Principal Secretary of Forest, Bihar and also for quashing letter no. 252 dated 29.02.2016, as contained in Annexure-12, issued by the Forest Divisional Officer, Motihari, by which the amount of Rs. 1,000/- as the renewal fee with the renewal application has been returned to the petitioner.

Learned counsel for the petitioner has submitted that he is the owner of Saw Mill, namely, Sharma Saw Mill having License No. 393/99 situated at Kaudihar Chowk, Raxaul, East Champaran. The aforesaid Saw Mill was issued license on 02.09.1999 in the name of father of petitioner. Father of petitioner in the year 1999 itself got notice from the Forest Department regarding renewal of license vide Memo No. 3323 dated 18.11.1999 as contained in Annexure-2. He was directed to deposit Rs. 1,000/- otherwise his license will automatically be cancelled. Father of petitioner deposited the fee of Rs. 1,000/- with the renewal form on 21.12.1999.

It has been further submitted that license of the father of petitioner was not renewed even after filing of the representation.

Learned counsel for the petitioner has submitted that in the year 2010 a gazette notification no. 664 dated 10th September, 2010 came under which the Saw Mill established before year 2002



were to be considered for the seniority list and those saw mills which were sorted under that list were to be provided license to operate. The father of petitioner on finding such opportunity applied for renewal of license of his Saw Mill before the Divisional Forest Officer, Motihari, who was Licensing Authority in the year 2011. License of the Saw Mill of petitioner was renewed for the year 2012. Thereafter father of petitioner regularly submitted the renewal form in proper format with the fee of Rs. 1,000/- for the year 2013, 2014 and 2015 but the license of the Saw Mill of the petitioner was not renewed.

It has been submitted that renewal form and the draft was returned back by the Forest Department vide Memo No. 558 dated 31.03.2015 stating therein that name of the Saw Mill of the petitioner was not included in the seniority list of the saw mills, which were to be given license.

It has been further submitted that father of petitioner died on 29.03.2015 after which the management of the saw mill came in the hands of the petitioner. Thereafter petitioner informed the concerned authority about the death of his father vide letter dated 27.04.2015 as contained in Annexure-7. The petitioner preferred writ application before the Hon'ble Court vide C.W.J.C. No. 10600 of 2015, which was disposed off on 21.07.2015 in the



light of order of L.P.A. No. 1216 of 2015 dated 07.07.2015. The Forest Divisional Officer after the order of the court issued letter no. 1478 dated 22.09.2015, which is under challenge in this writ petition. The request of the petitioner for renewal of license of his Saw Mill was rejected on 20.02.2016 vide Memo No. 203.

Learned counsel for the petitioner has submitted that earlier License No. 393/99 was renewed on 31.02.2012. Copy of aforesaid license is enclosed as Annexure-5. The aforesaid license of the Saw Mill of petitioner was issued on 21.12.1999.

Learned counsel for the State has filed Counter Affidavit stating therein that license of the Saw Mill of petitioner was already cancelled by the Divisional Forest Officer, Muzaffarpur vide Memo No. 3821 dated 29.12.1999. Copy of Memo No. 3821 dated 29.12.1999 is annexed as Annexure-A to the Counter Affidavit.

It is mentioned in the Counter Affidavit that no appeals or writ application has been filed by the petitioner against the cancellation order. It is further mentioned that renewal of cancelled license without same being restored cannot be done.

Learned counsel for the petitioner has submitted that his father was alive in the year 2012. He died on 29.03.2015. The



information was duly given to the concerned authority vide Annexure- 7.

Learned counsel for the petitioner has submitted that the order as contained in Annexure-A to the Counter Affidavit cancelling the license of the Saw Mill of the petitioner was never communicated to the petitioner. It is for the first time brought on record by way of Counter Affidavit. There is only vague statement made in Annexure-11 that in the light of direction of Conservator of Forest, Muzaffarpur, the Divisional Forest Officer, Tirhut Forest Division, the then Licensing Officer cancelled the license of the Saw Mill of the petitioner.

From perusal of Annexure-A to the Counter Affidavit, it appears that order has been passed by the Divisional Forest Officer, Tirhut Division, Muzaffarpur.

Learned counsel for the State has submitted that after cancellation of the license in the year 1999, the petitioner was not having any license. He could not produce any license for the said period. After Gazette Notification dated 10th September, 2010, license of the petitioner was renewed for the period dated 31.12.2012.

Learned counsel for the State has submitted that as per Gazette Notification No. 664 dated 10.09.2016 the saw mills



established before the year 2002 were to be considered for the seniority list and those saw mills which were sorted under the list were to be provided license to operate. It is submitted that in the Provision under 1(ii) of the notification it has been clearly stated that the saw millers whose license has not been renewed even when application in proper format has been given by them were liable to be considered for the seniority list. Copy of aforesaid Notification is annexed as Annexure-4.

This Court after hearing the submissions of the parties and looking into Counter Affidavit as well as the statement made in the writ petition finds that there is no mention in Annexure-11 about the order as contained in Annexure-A to the Counter Affidavit. It is mentioned that license of the petitioner was cancelled as per Gazette Notification as contained in Annexure-4.

Learned counsel for the petitioner has submitted that his father has already deposited Rs. 1,000/- as fee for renewal of license. Copy of renewal form is annexed as Annexure-3.

Learned counsel for the State has submitted that the order as contained in Annexure-A to the Counter Affidavit has been passed on 29.12.1999 after considering the application for renewal of license of the Saw Mill of petitioner. The petitioner has



never challenged the aforesaid order as contained in Annexure-A to the Counter Affidavit.

Learned counsel for the petitioner has further submitted that in LPA No. 1216 of 2015, the petitioner was not party. The order as contained in Annexure-11 has been passed on the basis of observation made in L.P.A. No. 1216 of 2015 with respect to case of other petitioners whose case was also on the similar footing as that of the petitioner.

This Court after looking into order, which has been brought on record as contained in Annexure-A to the Counter Affidavit, finds that said order was never challenged by the petitioner.

Learned counsel for the petitioner has submitted that his license was renewed for the period 31.12.2012.

As per Gazette Notification as contained in Annexure-4, there was direction that the saw mills established before the year 2002 were to be considered for the seniority list and those saw mills which were sorted under the list were to be provided license to operate. The request of the petitioner for renewal of license of his Saw Mill was rejected on the ground that license of the petitioner was already cancelled in the light of direction of the Conservator, Forest Officer, Muzaffarpur.



In such circumstances, this Court does not find any merit in this writ petition.

The instant writ petition is accordingly dismissed.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	30.04.2019
Transmission Date	

