

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15322 of 2015

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M/s Rohul Saw Mills through Proprietor Md. Yakub, son of Late Yar
Mohammad R/o village + PS - Dhaka, 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 Conservator of Forest, Siwan, Distt. - 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.Sharda Nand Mishra with Mr. Dhananjay Kumar Gupta, Advocates
For the Respondent/s	:	Mr. Kinkar Kumar SC-9

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 31-01-2019

Heard learned counsel for petitioner and learned S. C.9
representing the State.

This writ petition has been filed for quashing the letter
memo no. 229 dated 19.3.2015 as contained in Annexure-10,
issued under signature of the Divisional Forest Officer,
Motihari, by which application of petitioner filed on 25.11.2014
for renewal of licence along with Bank Draft has been rejected.

The petitioner has challenged the order contained in
Annexure-10, on the ground, that the same is non- speaking
order. No any valid reason has been shown for not accepting the
licence fee deposited by the petitioner for renewal of his licence



for the year 2015. Learned counsel further submits that respondent -Principal Secretary, issued a circular bearing memo no. 2675 dated 30.8.2010 modifying the earlier circular no. 760 dated 13.11.2003 stating therein to include the name in the seniority list of all Saw Mills who have got the licence on or before 2002. If any, licence of the Saw Mills was cancelled or not renewed and they had not filed any appeal or, if any, filed and had got no benefit even then their name shall be included in the Saw Mills. Photo copy of the circulars dated 30.8.2010 is annexed as Annexure-3 to this application. It is also submitted that respondent- Principal Chief Conservator of Forest, Bihar, Patna issued a letter memo no. 2185 dated 9.9.2011 by which directed to all Conservators of Forest and all Divisional Forest Officers to renew conditional licence, who were not selected on the basis of the seniority list for licence, on the ground the finalization of the seniority list, the licence of Saw Mills shall not be closed. The photo copy of letter dated 9.9.2011 is annexed as Annexure-4 to this application. Learned counsel submits that petitioner submitted application before the respondent -Licensing authority and thereafter the respondent- Divisional Forest Officer, Motihari, enquired into the matter from D.F.O., Muzaffarpur and after due verification a letter



memo 2805 dated 28.11.2011 was issued by which the petitioner was issued licence no. 449 of 1999 and, thereafter, the same was renewed in the years 2011 and 2012, subject to result of the final outcome of the order of Hon'ble Apex Court. The photo copy of letter dated 28.11.2011, licence dated 8.12.2011 and 25.1.2012 have been annexed as Annexure-5 series to this application. Learned counsel further points out that he has applied for renewal of his licence in the year 2015 but the same was rejected vide Annexure-10.

A detail counter affidavit has been filed by the respondent no.6 stating therein that his initial licence granted vide license no. 7/94 was not issued from his Department. The licence of the petitioner was not renewed in the year 1995. The true copy of the letter no. 13 dated 01.01.2001 issued by the Divisional Manager, Forest Project Division, Bettiah, has been annexed as Annexure- B to the counter affidavit. Learned counsel for the State submits that thereafter the Divisional Forest Officer, Muzaffarpur vide his letter no. 3879, dated 29.12.1999, has suspended the licence granted by him to the petitioner till further orders and after due examination of the matter, the Divisional Forest Officer, Muzaffarpur, vide his letter no. 204 dated 18.1.2001, cancelled the licence of the petitioner. The true



copy of this letter has been annexed as Annexure C and C/1 to the counter affidavit.

Learned counsel for the petitioner submits that he is mainly aggrieved with Annexure-10 which is non-speaking order. No any cause has been assigned in the aforesaid order for refusing to renew the licence of the petitioner. He has also relied on judgment of this Court passed in L.P.A. No. 1216 of 2015 dated 07.07.2015, wherein, *it has been observed that there cannot be any unilateral preparation of select list and denial of licence on that basis. It has been observed that the Licensing Authority shall give an opportunity to the petitioners to represent their cases and shall also indicate the basis on which the list of selected Saw Mills was prepared.*

Learned counsel for the State, on the other hand, submits that since his initial licence was found to be forged, therefore, the subsequent renewal which was made on the basis of the aforesaid circular in the year 1999 and onward was cancelled by the Authority concerned by order as contained in Annexure -C/1 to the counter affidavit. He further submits that case of the petitioner stands on different footing from other petitioners who have been granted relief on the basis of the order passed by this Court in L.P.A. No. 1216 of 2015.



In support of said submission, he has relied on a case law since reported in **2007(2) P.L.J.R. SC 201 (A. V. Papayya Sastry and Ors. vs. Govt. of A.P. & Ors.**

This court, after looking into Annexure-10, finds that no any reason has been assigned for rejecting the application of the petitioner. The reasons has been assigned in the counter affidavit filed by the counsel for the respondent no.6 but no such reason has been assigned in the impugned order as contained in Annexure-10. Therefore, this court feels that reasoned order is required to be passed by the competent authority and non-speaking order as contained in Annexure-10, is not in accordance with law.

In such circumstances, the impugned order as contained in Annexure 10, which is non- speaking order, is hereby set aside.

The competent authority is directed to pass fresh order in accordance with law after giving opportunity to the petitioner of hearing and looking into relevant documents produced by the petitioner at the time of hearing. The authority will pass appropriate order within a period of three months from the date of filing of representation by the petitioner.

The petitioner will file his representation before



competent authority within two months from the date of this order.

(Sanjay Priya, J)

shyambihari/-

AFR/AFR	AFR
CAV DATE	N/A
Uploading Date	7.2.2019
Transmission Date	

