

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9777 of 2015

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Ram Bahadur Sharma son of Late Ganga Ram Sharma Proprietor M/S Ram Bahadur Saw Mill, resident of village - Sapha - Baidyanathpur, P.S. - Sour Bazar, District - Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Environment and Forest Department, Government of Bihar, Patna.
3. The Principal Chief Conservator of Forest, Bihar, Patna.
4. The Conservator of Forest, Purnea Forest Circle, Purnea, Bihar.
5. The Divisional Forest Officer, Saharsa Forest Division, Saharsa, P.O.+ P.S. +District - Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra with Mr. Suraj Kumar Advocates
For the State	:	Dr. Md. Raisul Haque SC-10 with Mr. K.K. Singh, AC to SC-10

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 01-02-2019

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

The petitioner is aggrieved by order as contained in Annexure(s) 6 and 8 by which the application filed by the petitioner for grant/restoration of Licence No. 21/94 of Saw Mill in the light of direction of this Hon'ble Court vide order dated 18.4.2011 passed in C.W.J.C. No. 2072 of 2010 has been rejected.

The sole ground taken in Annexure(s) 6 and 8 is that in terms of the direction of the Hon'ble Supreme Court passed in W.P. (C) No. 202 of 1995 the number of Saw Mill for Saharsa District has been fixed as 36 and, therefore, no new licence can be



granted in favour of petitioner. Learned counsel for petitioner submits that initially the licence of the petitioner was cancelled vide order dated 25.11.2004 on the ground that he has shifted the place of Saw Mill from village Sapha to Baidyanathpur. He further points out that prior to passing of the order dated 25.11.2004 a verification enquiry has been done by the Range Officer and a detailed report has been submitted vide letter no. 42 dated 22.02.2004 before the respondent Divisional Forest Officer as contained in Annexure-1 to this application, wherein it is mentioned that the place of Saw Mill was never changed and in the records the place of running of Mill was mentioned as Baidyanathpur, P.S. Sour Bazar, District Saharsa. Learned counsel further submits that original Court i.e. Divisional Forest Officer while passing the initial order dated 25.11.2004 as well as the appellate court while passing order dated 21.1.2006 did not take into consideration the aforesaid report of Range Officer as contained in Annexure-1. The petitioner has filed the writ petition being C.W.J.C. No. 2072 of 2010 before this Hon'ble Court challenging both the aforesaid order(s). The Hon'ble Court, after looking into the aforesaid enquiry report submitted by Range Officer, became satisfied that Saw Mill has not been shifted, to Sapha from Baidyanathpur. The residential address of the petitioner was mentioned as Sapha in the license. The Saw Mill



was running since its inception in 1999 at Baidyanathpur. The Hon'ble Court has accordingly set aside both the order(s). The Hon'ble Court in the aforesaid order observed as under in para -8:-

“Needless to state that this shall not result in immediate restoration of the licensee status of the petitioner. Keeping in mind that he has also inordinately delayed in moving the Court, it is observed that if the petitioner applies afresh for a saw mill licence, his application is required to be considered in accordance with law when the impugned orders can be of no consideration or impediment in the same.

The petitioner has applied for fresh licence in compliance of the aforesaid order of the Hon'ble Court. The application for grant of licence was rejected by the respondent- Divisional Forest Officer, Saharsa- cum- Licensing Authority vide order dated 25.8.2012 as contained in Annexure-6 and also by the Appellate order dated 30.3.2015 contained in Annexure-8 on the ground that in term of the order of the Hon'ble Supreme Court passed in WP© no. 202 of 1995 the number of Saw Mill for Saharsa District has been fixed as 36 and the seniority list of 36 Saw Mills for Saharsa District has been issued and, therefore, no fresh licence can be granted.

Learned counsel for the respondent no.5 has filed a detailed counter affidavit stating therein that the aforesaid order was passed by the authority in light of the order passed by the Hon'ble Supreme Court in WP© no. 202 of 1995. The number of Saw Mill for Saharsa District has been fixed as 36 and the seniority list of 36



Saw Mills for Saharsa District has been issued. In case petitioner is granted licence then the number of Saw Mill in Sahara District would be enhanced from the fixed number. This order was communicated to petitioner by memo no. 1501 dated 25.8.2012 passed by respondent Divisional Forest Officer, Saharsa. The appeal preferred by the petitioner was dismissed by the appellate authority i.e. Conservator of Forest, Circle Purnea vide order dated 30.3.2015 passed in Appeal case no. 01(s) of 2014 as contained in Annexure-8.

Learned counsel for the petitioner submits that petitioner is running from pillar to post since the year 2010.

Learned counsel for the State, has submitted that this Hon'ble Court has mentioned in the earlier order passed in CWJC No. 2072 of 2010 that *this order shall not result in immediate restoration of the licensee status of the petitioner. Keeping in mind that he has also inordinately delayed in moving the Court, it is observed that if the petitioner applies afresh for a saw mill licence, his application is required to be considered in accordance with law when the impugned orders can be of no consideration or impediment in the same.*

It appears from the record that earlier order cancelling the licence of the petitioners was passed on 25.11.2004. The appellate order was passed on 21.1.2006. Both the orders were passed on



the ground that fresh license cannot be issued because the license has already been issued to 36 Saw Mills, which was maximum number fixed for district of Saharsa in terms of order of Hon'ble Supreme Court.

This Court, after looking into the order passed by the Hon'ble Supreme Court dated 29.10.2002 in WP© no. 202 of 1995 and also the recommendation of Central Empowered Committee finds that number of Saw Mill for Saharsa District has been fixed as 36. Therefore, this Court does not find illegality having been committed by the authority in passing the impugned order as contained in Annexure(s) 6 and 8. Therefore, this Court does not find any illegality in both the impugned orders.

The writ petitioner is, however, given liberty to file representation before the Central Empowered Committee or competent authority along with the earlier order of this Court passed in C.W.J.C. No. 2072 of 2010 and also the report of the Range Officer as contained in Annexure-1, for grant of fresh licence on the ground that he has not committed any wrong at the initial stage and his licence was cancelled without taking into consideration the correct facts as mentioned in the enquiry report as contained in Annexure-1. He will be granted opportunity of personal hearing in terms of order of this Hon'ble Court passed in C.W.J.C. No. 2072 of 2010. In the event, any such representation



is filed before the Central Empowered Committee/ Competent Authority, the same shall be considered by the Central Empowered Committee /Authority in accordance with law and disposed of within a period of three months from the date of filing of such representation.

This writ application is, accordingly, disposed off.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	
CAV DATE	N/A
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