

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18816 of 2019

=====

Arvind Kumar Pandey, Son of Muktinath Pandey, M/S Baba Mahendranath
Saw Mill, R/o Village- Sultanpur, Post- Raghunathpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Bihar, Patna.
2. The Principal Chief Conservator of Forest, Technology Bhawan, Bailley Road, Patna.
3. The Regional Chief Conservator of Forest, Bihar, Muzaffarpur.
4. The Divisional Commissioner Cum Selection, Saran at Chapra.
5. The Conservator of Forest, Forest Circle, Siwan.
6. The Licensing Authority Cum Divisional Forest Officer, Siwan now at Gopalganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr.Manoj Kumar Manoj, Advocate
For the S t a t e	:	Mr.Sarvesh Kumar Singh, AAG-13
		Mrs. Sunita Kumari, A.C. to AAG-13

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

Date : 13-09-2019

Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

2. The petitioner seeks to quash the order dated
17.05.2019 passed in Misc. Appeal No.7 of 2016 by the District &
Sessions Judge, Siwan, whereby the miscellaneous appeal filed
along with an application for condonation of delay for inclusion of
the name of saw mill of the petitioner in the Seniority List for
Siwan District prepared in the light of Resolution No.2675 dated



30.08.2010, has been rejected on the premise that the petitioner had filed the said application after a delay of thirty days as prescribed under the law.

3. Learned counsel for the petitioner further submits that the petitioner also prays for setting aside the order dated 13.08.2013 passed in Appeal No.07 of 2012 by Respondent No.5, which was the order impugned in the writ application (C.W.J.C. No.22341 of 2013) filed earlier by the petitioner before this Court and in which a direction has been issued to the petitioner to appear before the appropriate forum and which was disposed of on 08.02.2016 in the following terms :

“Heard Sri Manoj Kumar Manoj, learned counsel for the petitioner and learned AC to SC-19.

Learned counsel for the petitioner tried to persuade the Court to quash an order dated 13.08.2013 passed in Appeal no.07 of 2012 (Annexure-6 to the writ petition). However, after noticing the fact that the Court was not inclined to directly interfere with the matter, learned counsel for the petitioner makes a prayer for disposal of the writ petition, so that the petitioner may avail appropriate remedy.

The prayer is allowed.

The writ petition stands disposed of.

It goes without saying that the period consumed in pursuing the present writ petition i.e. from 11.11.2013 till date, may be excluded, while considering the limitation matter. It is also observed that the Court has not recorded any opinion on the merit of the case.”



4. Learned counsel for the petitioner submits that after the disposal of the aforementioned writ application in which liberty had been extended to the petitioner to approach the appropriate forum for redressal of his grievance, the petitioner filed an application along with an application for condonation of delay, but the learned District & Sessions Judge, Siwan without appreciating the case of the petitioner and without even glancing through the limitation petition, which was filed along with the said application, rejected the case of the petitioner, vide his order dated 17.05.2019. Learned counsel for the petitioner thus submits that there has been clear miscarriage of justice and the petitioner's case deserves to be considered in the light of the relevant provisions of law.

5. Learned counsel for the State submits that the sole ground on which the case of the petitioner was rejected is non-observance of the mandates of law which provides that even such appeal be filed before the District Judge within a period of thirty days and not otherwise.

6. After hearing the learned counsel for the petitioner and the learned counsel for the State, it appears that in the present case, the order dated 17.05.2019 does not indicate any consideration of the limitation petition which was annexed with



the miscellaneous appeal and without considering the same, the learned District & Sessions Judge has proceeded to dispose of the appeal of the petitioner rejecting his case *in toto*.

7. After consideration of all facts and circumstances, the matter is remanded back to the learned District & Sessions Judge, Siwan for re-consideration of the case of the petitioner in the light of the relevant provisions of law and after consideration of the fact that the petitioner had filed the case about two months of the date of the disposal of the writ application filed before this Court earlier. The court shall take into consideration the explanation offered by the petitioner while considering the application for condonation of delay and thereafter proceed to decide the matter in its entirety on merits after due consideration of the relevant provisions of law within a period of three months from the date of receipt/production of a copy of this judgment/order.

8. The application thus stands disposed of.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

