

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15336 of 2015

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M/s Vishwakarma Saw Mill and Furniture Works through Proprietor Neta Lal Sharma, S/o Lotan Sharma R/o village + PO - Shripur, P.S. - Sugauli, 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 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 State : Mr. Wasi Ahmad Khan AC to SC-25.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 31-01-2019

Heard learned counsel for petitioner and learned Assistant counsel to Standing Counsel no. 25.

This writ petition has been filed for quashing letter memo no. 397 dated 13.3.2015, as contained in Annexure-9, issued under signature of the Divisional Forest Officer, Motihari, by which application of petitioner filed on 27.11.2014 for renewal of licence along with Bank Draft, has been rejected.

The petitioner has challenged the order contained in Annexure-9 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 for petitioner 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 to all saw Mills who have got the licence on or before 2002. If any licence of the Saw Mills were 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-2 to this application. Thereafter, the petitioner filed an application dated 27.9.2010 before the Divisional Forest Officer, Motihari, for inclusion of his name in the seniority list of Saw Mills as well as renewal of his licence but the same was not considered by the respondent authority as yet. 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, who after due verification, renewed the licence of petitioner in the year 2012



subject to result of final outcome of the order of Hon'ble Apex Court. The photo copy of licence dated 10.2.2012 has been annexed as Annexure-5 to this application. Learned counsel submits that he has applied for renewal of his licence in the year 2015 but the same was rejected vide Annexure-9.

A detailed counter affidavit has been filed by the respondent no.6 stating therein that petitioner was granted license no. 67/91 by the Divisional Manager, Forest Project Division, Bettiah, which was communicated to Divisional Forest Officer, Muzaffarpur by letter no. 472 dated 18.8.2000 of Divisional Manager, Bettiah, communicating that this licence has been renewed up-to the year 1996. A photo copy of letter dated 18.8.2000 is annexed as Annexure -A to counter affidavit.

It is also mentioned in the para 7 of the counter affidavit that earlier licence for Saw Mills were issued under Bihar Rules for the Establishment of Saw pits and Establishment and Regulation of Depots, 1983. Thereafter, Bihar saw Mills (Regulation) Act, 1990 came into force, but provision of application fees and security deposit case remained same in Bihar Saw Mill (Regulation) Rule 1993. Petitioner was not issued licence under Bihar Saw Mill (Regulation) Act 1990 but under the Rule made in year 1983 and the same was renewed up-to year 1996, though it had become invalid after the Rules of 1993 came



into force. The petitioner applied for renewal of licence before the Divisional Forest Officer, Muzaffarpur along with copy of licence renewal in year 1996 and licence no. 373/99 was issued to him under Bihar Saw Mills (Regulation) Act, 1990 in name of Neta Lal Sharma, the writ petitioner. The licence was renewed for the year 2000. It is further submitted that application for renewal of licence was submitted in the year 2001 but, thereafter, no application was submitted for the renewal of the licence and since then the licence of the petitioner has not been renewed.

Learned counsel for the petitioner submits that he is mainly aggrieved with Annexure-9, which is non-speaking order. No any reason 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 7.7.2015, 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.*

This court, after looking into Annexure-9, finds that no any reasons has been assigned for rejecting the application of the petitioner. The reasons has been assigned in the counter affidavit



which was filed by the counsel for the State but no such reason has been assigned in the impugned order as contained in Annexure-9. Therefore, this court feels that reasoned order is required to be passed by the competent authority and, non-speaking order as contained in Annexure-9, is not in accordance with law.

In such circumstances, the impugned order as contained in Annexure 9, 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 to file representation and giving proper opportunity of hearing to the petitioner. 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 within two months from the date of this order.

(Sanjay Priya, J)

shyambihari/-

AFR/AFR	AFR
CAV DATE	N/A
Uploading Date	07.02.2019
Transmission Date	

