

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14768 of 2015

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M/s Nuri Saw Mills, through Proprietor Abdus Samad, S/o Ramjan Mian, R/o village+PO+PS- Janpul, 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. null null
4. The Commissioner, Tirhut Division, Muzaffarpur, District- Muzaffarpur.
5. The Conservator of Forest, 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 Mr. Dhananjay Kumar Gupta Mr. Deepak Kumar Mr. Rajiv Ranjan
For the Respondent/s	:	Mr. Anirban Kundu, SC-24

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 07-01-2019

Heard the learned counsel for the petitioner and the State.

2. This writ petition has been filed for issuance of writ for quashing Letter Memo No. 399 dated 13.03.2015, which is annexed as Annexure-10, issued under signature of Divisional Forest Officer, Motihari, by which application of petitioner filed on 22.11.2014 for renewal of licence of saw mill along with Bank draft has been returned and rejected.

3. Learned counsel for the petitioner has submitted that he was granted licence for Saw Mill in the year 1999 bearing License No. 420/1999. Licence of the petitioner was renewed in the year



2012 pursuant to the direction of department as contained in Annexure-4, vide letter Memo no. 2185 dated 09.09.2011, issued by Principal Chief Conservator of Forest, Bihar, by which it was directed to all Conservator of Forest and all Divisional Forest Officers that *“Persuant to order of the Hon’ble Supreme Court pending finalization of the seniority list, the licenced saw mills are not to be closed (Except the units involved in forest offences and other misconduct)”*

4. On the basis of order of Hon’ble Supreme Court and also the Circular bearing no. 2675 dated 30.08.2010 issued by Principal Secretary as contained in Annexure-3, it has been mentioned in Clause 2(1) that all the saw mills, who were having licence before 29.10.2002 will be included in the seniority list.

5. Learned counsel for the State has submitted in the counter affidavit that earlier licence of petitioner was cancelled by the Licensing Authority in the year 1999, which is annexed as Annexure-A/1 to the counter affidavit, vide Memo No. 3824 dated 29.12.1999. The petitioner had moved before this Hon’ble Court against cancellation of his licence vide C.W.J.C. No. 6811 of 2000, which was disposed off by order dated 08.08.2003. Since no representation was filed by petitioner after passing of order of Hon’ble Court, it is evident that no relief was granted to petitioner.



6. It is further submitted that no appeal was filed after cancellation of licence.

7. Learned counsel for the petitioner has submitted that in the light of Annexure-4, which was issued in terms of Circular of Principal Secretary bearing Memo No. 2675 dated 30.08.2010, licence of petitioner was renewed in the year 2012 in terms of Annexure-5 vide Memo No. 228 dated 10.02.2012. This fact has been admitted by the State in para 18 of the counter affidavit.

8. The State has mentioned in para 18 of counter affidavit that the then Divisional Forest Officer, Motihari renewed the licence of petitioner for the year 2012 (Annexure-5 of the writ petition).

9. Learned counsel for the petitioner has further submitted that petitioner had applied for renewal of his licence in the year 2014. The authority was not legally authorized to return the same without showing valid reason for doing the same. The authority concerned has refused to accept the application of the petitioner for renewal of licence without giving any valid reason.

10. Learned counsel for the petitioner has pointed out that in similar cases this Hon'ble Court in L.P.A. No. 1216 of 2015 vide order dated 07.07.2015 has observed that *there cannot be any unilateral preparation of select list and denial of licence on that*



basis. The Hon'ble Court has directed the Licensing Authority to give opportunity to the petitioners to represent their cases and shall also indicate the basis on which the list of selected saw mills was prepared.

11. Therefore, this Court finds that the order dated 13.03.2015 as contained in Memo No. 399 is non-speaking order. Accordingly, the same is set aside.

12. The competent authority is directed to pass fresh order in accordance with law after filing representation by the petitioner and after 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.

13. The petitioner will file his representation within two months from the date of this order.

14. This Writ Petition is, accordingly, allowed.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	N.A.
Uploading Date	16.01.2019
Transmission Date	

