

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15142 of 2015

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Rajendra Singh son of Late Charan Singh resident of Mohalla - Khagaul Road, Mithapur, P.S. Jakkanpur, District Patna proprietor of M/s Bhargo Saw Mill, Khagaul Road, Mithapur, P.S. Jakkanpur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Environment & Forest Department, Government of Bihar, Patna.
2. The Principal Chief Conservator of Forest, Bihar, Department of Environmental & Forest, Government of Bihar, Patna.
3. The Commissioner-cum-Chairman of Saw Mills, Patna Division, Patna.
4. The Conservator of Forest, Patna Circle, Patna.
5. The Divisional Forest Officer, Patna Forest Division, Patna.
6. Sri Awadhesh Kumar Ojha, the then Divisional Forest Officer, Patna Forest Division, Patna.
7. Sri J.P. Gupta, the then Divisional Forest Officer, Patna Forest Division, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Adv. Mr. Vinay Mistry, Adv.
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13 Mr. Shakib Ayaz, AC to AAG-13
For the Respondent No. 6 & 7 :	:	Mr. Shivendra Kishore, Sr. Adv. Mr. Jai Kishore Poddar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 08-01-2019

Heard learned counsel for the petitioner, learned counsel for the respondent No. 6 and learned counsel for the State.

The petitioner has sought relief in the instant writ petition for issuance of writ in nature of *mandamus* directing the respondents to make a fresh seniority list of Saw Mills of Patna District on the basis of the “date of establishment of Saw Mills” because the seniority list of Saw Mills of Patna District



has been prepared by the Selection Committee on the basis of “date of receipt of security money” which is contrary to the observations and recommendations of the Central Empowered Committee dated 11.06.2008 approved by the Hon'ble Supreme Court vide its order dated 04.09.2009.

Detailed counter affidavit(s) have been filed on behalf of respondent No. 6 as well as the State-respondent No. 1 to 5.

The learned counsel for the State has submitted in the counter affidavit in paragraph no.11 that in the instant application renewal for licence was submitted on 29.12.1993 by the petitioner in prescribed format but application money was deposited on 30.03.1994 and the security deposit in form of NSC was deposited on 05.10.1994. Thus, for the seniority purpose the date of submission of application form was taken on 05.10.1994.

Learned counsel for the petitioner has drawn attention of this Court to Annexure-1 to the writ petition which is recommendation of C.E.C. filed in Interlocutory Application No. 1274-1275 of 2005 which was accepted by the Hon'ble Supreme Court as mentioned in para-3 of the aforesaid recommendation. It is mentioned in the aforesaid



recommendation in paragraph nos. 8 and 9 that the *inter se* seniority of the Saw Mills of Patna District were fixed after following a transparent procedure giving due weightage to the date of establishment of Saw Mills established before the enactment of Bihar Saw Mills (Regulation) Act, 1990, the date of application for the grant of Saw Mill licence and after giving an opportunity of personal hearing to Saw Mills who have filed objections against the provisional seniority list. The various recommendations have also been made in the aforesaid background as mentioned in detail in paragraph 9 of the recommendation of CEC as contained in Annexure-1. Learned counsel for the petitioner further submits that the date of establishment of his Saw Mills is in the year 1959 but during preparation of the final seniority list for the Patna District as contained in Annexure-2, seniority list of the Saw Mill of the petitioner has been placed at Sl. no. 108 on the basis of the deposit of the security amount by him on 5.10.1994.

A counter affidavit has been filed on behalf of the State, wherein, it is mentioned in para 11 that in the instant case the application was submitted by the petitioner on 29.12.1993 in prescribed format but application money was deposited on 30.3.1994 and the security deposit in the form of



NSC was deposited on 5.10.1994. Thus, for seniority purpose the date of submission of application form was taken as 5.10.1994.

Learned counsel for petitioner submits that he has filed a detailed representation before the Principal Chief Conservator of Forest, Bihar, Department of Environment and Forest, Govt. of Bihar, Patna (respondent no.2) as contained in Annexure-7 and makes prayer before this Court to direct the aforesaid respondent no.2, who is also Chairman of the Selection Committee and State level Committee, to consider the representation (Annexure-7) and pass appropriate order in accordance with law after looking into all the relevant documents and his other claims with regard to seniority list of Saw Mill.

Learned counsel for the respondent no. 6 submits that this writ petition is not maintainable as the same has been filed after inordinate delay. He further submits that there is provision of appeal before the District Magistrate. It has further been argued that the petitioner has challenged the final seniority list without impleading the other Saw Mill owners who have been placed before him.

In reply to the aforesaid submissions, learned counsel



for the petitioner submits that Hon'ble Apex Court in its subsequent judgment has ordered that final authority to decide the dispute will be the Principal Chief Conservator of Forest (Respondent No. 2) and not the District Judge. He further submits that he is not seeking any relief with regard to the seniority list of his Saw Mill rather he wants that the matter will be reconsidered by the competent authority after verifying all the relevant documents and after giving him proper opportunity of hearing.

This Court, after hearing the arguments of all the parties, finds that the seniority list of Saw Mills of Patna District has already been prepared vide Annexure-2, wherein, the name of Saw Mill of this petitioner figures at Sl. no. 108 on the basis of the money deposited by him on 5.10.1994 as Security deposit in form of NSC. Learned counsel for petitioner has further pointed out with regard to the recommendation of C.E.C. as contained in Annexure-1 to the writ petition, wherein, at paragraph no. 8, it is mentioned that seniority is to be determined after giving an opportunity of personal hearing to Saw Mills who have filed objections against the provisional seniority list. It is also mentioned in the aforesaid paragraph that *inter se seniority* of the Saw Mills are to be fixed after following



a transparent procedure giving due weightage to the date of establishment of Saw Mills established before the enactment of Bihar Saw Mills (Regulation) Act, 1990, the date of application for the grant of Saw Mill licence and after giving an opportunity of personal hearing to Saw Mills who have filed objections against the provisional seniority list.

In this case, on the basis of counter affidavit filed on behalf of State, it appears that while fixing the seniority of the Saw Mill of the petitioner the date of deposit of security money has been taken into consideration and not the date of establishment of the Saw Mill of the petitioner as mentioned in paragraph-8 of the recommendation of CEC. Learned counsel for the petitioner has further submitted that his Saw Mill has been established in the year 1959 and, therefore, he is entitled for upper position in the seniority list.

This Court is of the considered view that all these claims of the petitioner can be properly adjudicated by the Principal Chief Conservator of Forest (Respondent No. 2) after looking into the claims of the petitioner and verifying the documents produced by him after giving him due opportunity of hearing while disposing of his representation which he has already filed as contained in Annexure-7 to the writ petition.



In the facts and circumstances of the case, this writ petition is disposed of with direction to Principal Chief Conservator of Forest (Respondent No. 2) to consider the representation of the petitioner as contained in Annexure-7 after giving proper opportunity as well as looking into all the relevant documents filed by him with regard to the claim for seniority of his Saw Mill in accordance with law preferably within a period of three months from the date of receipt of this order.

This writ petition stands disposed of.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	18.1.2019
Transmission Date	

