

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2007 of 2020**

1. Mukesh Kumar Mishra, S/o Rajendra Kumar Mishra, Aged About 41 Years, R/o Village Bandha Bazar (Kotra) Tahsil Ambagarh Chowki , District : Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Forest , Mahanadi Bhavwan , Atal Nagar , Raipur , District : Raipur, Chhattisgarh
2. Divisional Forest Officer, Rajnandgaon Forest Division Rajnandgaon.
3. Chief Conservator Of Forest (Regional) Durg Circle, District : Durg, Chhattisgarh
4. Additional Principal Chief Conservator Of Forest, North Block Aranya Bhawan, 2nd Floor , Atal Nagar, Raipur , District : Raipur, Chhattisgarh
5. State Level Committee Through Chairman, Principal Chief Conservator Of Forest, North Block, Aranya Bhawan, 2nd Floor, Atal Nagar, Raipur, District : Raipur, Chhattisgarh

----- Respondents

For Petitioner	:	Mr. Vipin Punajbi, Advocate
For State	:	Mr. Raghvendra Verma, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28.10.2020**

1. The present is a second round of litigation. The issue is in-respect-of granting and transferring of a license/renewal of license; so far as running of "Mishra Saw Mill" situated at Bandha Bazar (Kotra), Tahsil: Ambagarh Chowki, District: Rajnandgaon, (C.G.) is concerned. The original license holder of the said mill was late Rajendra Kumar Mishra who was having the license since 1978. The said Rajendra Mishra, however, expired on 31.10.2017, the petitioner is the son of the said Rajendra Kumar Mishra. The petitioner thereafter have been pursuing to get the license transferred in his name in the light of the death of his father.
2. The authorities concerned meanwhile, however have asked the petitioner to obtain the succession certificate. Now the succession certificate was applied by the petitioner before the Court of the Civil Judge Class-I Rajnandgaon in Succession Civil Suit Case No. 19-A/2018. In the said case, the successors have been declared to be Nitish Kumar Mishra, Jai Mishra and Anurag Mishra. The succession certificate was so issued on the basis of a Will which was executed by the license holder namely, Late Rajendra Kumar Mishra. The petitioner has not been declared as the successor of the said property. Based upon which the application for transfer of the license has been rejected vide the impugned order Annexure P-1.
3. Today during the course of hearing, the counsel for the petitioner submits that since the succession certificate has been issued in favour

of Jai Kumar Mishra and Anurag Mishra both of whom being the son of the petitioner and they being minors the application has been moved by the petitioner in his name. Moreover, it is also contended that his nephew namely Shri Nitish Kumar Mishra, Son Naresh Kumar Mishra, the brother of the petitioner who is also declared as a Successor also does not have any objection in this regard. Therefore, the authorities ought to have considered the application in a more pragmatic manner.

4. Considering the fact that the Court has not granted succession in favour of the petitioner, the decision taken by the respondents cannot be found to be faulty/erroneous. As regards, the transfer of license in the name of the successors in whose favour the succession certificate has been issued, there appears to have been no application made as such. That unless the application is filed by a proper person in this regard, the respondent authorities cannot be expected to take a decision on the same. Moreover there is no such application pending anywhere till now.
5. Given the facts and circumstances of the case, this Court is of the opinion that in the factual backdrop as mentioned in the preceding paragraphs, no strong grounds or reason to interfere with the said impugned order has been made out.
6. However, the petitioner or the proper person/persons would still be at liberty in moving a fresh application for transfer of the license in the name of successors in whose name succession certificate has been

issued. That upon such application being made, the concerned Forest authorities are expected to take a fresh decision on the said application in accordance with the procedure applicable and also taking note of the provisions of the Wood Based Industry (Establishment and Regulation) Guidelines 2016. Upon the application being made by the successors, the respondent authorities are expected to take a decision at the earliest, preferably within a period of 90 days from the date of receipt of copy of this Order.

7. With the aforesaid order, the writ petition stands disposed off.

Sd/-
P. Sam Koshy
Judge