

High Court for the State of Telangana

The Hon'ble The Chief Justice Sri Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice A. Abhishek Reddy

W.A. No. 81 of 2020

Date: 31-01-2020

Between:

The State of Telangana
rep. by its Principal Secretary, Forest, Environment
Science & Technology Dept.,
Secretariat Buildings, Secretariat, Hyderabad and 5 others

...Appellants

And

Deccan Sawmill,
Situated at Malapally, Nizamabad,
Rep. by its owner/Prop: Sri Idris Khan, S/o Ibrahim Khan,
aged 45 years, Occ: Sawmill Business,
R/o H.No. 9-20-354, Mujahidnagar, Nizamabad.

...Respondent

Counsel for the appellants: Govt. Pleader for Forest

Counsel for the respondent: Ms K. Kiranmayee

The Court made the following:

Judgment: (per Hon'ble The Chief Justice Sri Raghvendra Singh Chauhan)

The appellants have challenged the legality of the order dated 18-12-2019, passed by the learned Single Judge in W.P. No. 12050 of 2019, whereby the learned Single Judge has set aside the order dated 07-06-2019, passed by the Chief Conservator of Forests, Nizamabad, the appellant No. 3, revoking the saw mill license of the respondent- Deccan Saw Mill.

For convenience, the parties shall be hereinafter referred to as they are arrayed in the writ petition.

Briefly, the facts of the case are that the petitioner in the writ petition is a saw mill represented by its proprietor doing business in teak logs for the last eighteen years. On 23-01-2019, the Forest Divisional Officer, Nizamabad, the respondent No. 5, inspected the saw mill. They discovered that five round teak logs of 0.209 Cmt, without hammer marks and digit numbers, were lying at the saw mill. Therefore, the five logs were seized on the ground of irregularities and violation. The respondent No. 5 registered a case, *namely* P.O.R. No. 25/165 under Section 29 of the Telangana State Forest Act, 1967 (for short 'the Act'), and Rule 9 (1), (2), (3) (a) and (b) of the Telangana Wood Based Industries (Regulations) Rules, 2016 (henceforth be referred as 'the Rules'). On 25-01-2019, the

respondent No. 5 issued a show cause notice to the petitioner directing him to explain as to why his saw mill license should not be revoked apart from confiscating the forest produce and the machinery. Immediately, on 01-02-2019, the petitioner submitted his explanation. Notwithstanding the explanation submitted by the petitioner, on 02-03-2019, a second show cause notice was issued, wherein it was alleged that the teak logs discovered at the saw mill were in excess of the ground stock. On 11-03-2019, the petitioner submitted his explanation wherein he denied the allegations made in the show cause notice. Subsequently, the saw mill was seized by the respondents. Therefore, the petitioner filed a writ petition, *namely* W.P. No. 12050 of 2019, challenging the seizure of the saw mill. By order dated 08-04-2019, in I.A. No. 1 of 2019 in W.P. No. 12050 of 2019, the learned Single Judge has directed that the seized machinery be released in favour of the petitioner.

Before the learned Single Judge, the petitioner had pleaded that under the Act, there is a provision for compounding of the offence. While the respondents are compounding the offences of another saw mill, *namely* Bilal Saw Mill, despite the fact that the case of the petitioner stands on an identical footing, they are not willing to compound the offence committed by the petitioner. In order to buttress this plea, the petitioner had produced a copy of the order

dated 03-05-2019, passed by the respondent No. 5, concerning Bilal Saw Mill. Meanwhile, on 02-05-2019, the respondent No. 5 registered another case *namely* P.O.R. No. 17/128 under Section 29 of the Act, and Rule 9 (1), (2), (3) (a) and (b) of the Rules, on the ground that teak timber 2610 logs of 35.425 Cmt without any property marks were found at the saw mill during the ground stock verification. By order dated 18-05-2019, the respondent No. 5 had revoked the business license of the petitioner instead of compounding the offences.

By order dated 18-05-2019, the respondent No. 5 had revoked the license of the petitioner. Therefore, the petitioner filed a writ petition, *namely* W.P. No. 10622 of 2019, challenging the said order. The petitioner also sought the relief that the Chief Conservator of Forests, the respondent No. 3, be directed to compound the offences as was done in the case of Bilal Saw Mill. While disposing of the said writ petition along with two other similar writ petitions, by order dated 29-05-2019, the learned Single Judge had clearly directed the respondent No. 3 as under:

“Accordingly, the writ petition is disposed of directing the 3rd respondent, who is the appellate authority, to consider the case of the petitioners and dispose of the appeals, after issuing notice to the petitioners and also consider the request of the petitioners for compounding of the offences as was done in the case of Bilal Saw Mill, within a period of one (01) week from the date of receipt of a copy of this order. It is open for the petitioners

to place the material before the 3rd respondent/appellate authority to show that their case is identical to that of Bilal Saw Mill. There shall be no order as to costs.”

Pursuant to the aforesaid order, on 31-05-2019, the petitioner filed a representation before the respondent No. 3 requesting him to compound the offences. In response to the said representation, on 31-05-2019, the respondent No. 3 issued a notice to the petitioner for an oral enquiry to be conducted on 07-06-2019. However, after hearing the petitioner, by order dated 07-06-2019, the respondent No. 3 rejected the appeal filed by the petitioner, and affirmed the order passed by the respondent No. 5, revoking the license of the petitioner. Since the petitioner was aggrieved by the order dated 07-06-2019, he filed the present writ petition before the learned Single Judge as mentioned hereinabove. By order dated 18-12-2019, the learned Single Judge has set aside the order dated 07-06-2019. Hence, the present appeal before this Court.

The learned counsel for the appellants-respondents submits that by order dated 29-05-2019, the learned Single Judge had directed the petitioner to place all the material before the respondent No. 3 to show that his case is identical to that of the Bilal Saw Mill. However, the petitioner failed to do so.

Secondly, the case of Bilal Saw Mill is on a different footing as the Department had seized 862 teak logs of 16.199 Cmt valued at Rs.4,18,199/- and four teak logs of 0.186 Cmt valued at Rs.5,367/-, from the said Saw Mill, whereas the value of the teak logs seized by the Department from the petitioner is above Rs.5 lakhs. Therefore, the petitioner's case stands on a different footing altogether. Hence, while the Department was justified in compounding the offence committed by Bilal Saw Mill, the Department is equally justified in not compounding the offences committed by the petitioner. According to the learned counsel, this aspect has escaped the notice of the learned Single Judge. Therefore, the impugned order deserves to be interfered with by this Court.

Heard the learned counsel for the Department, perused the impugned order and considered the record.

Admittedly, by order dated 29-05-2019, a learned Single Judge, while disposing of W.P. No. 10622 of 2019, had directed the respondent No. 3 to consider the case of the petitioner, and also to consider the request of the petitioner for compounding the offences "*as was done in the case of Bilal Saw Mill*". Therefore, the respondent No. 3 was duty bound to not only consider the case of the petitioner for compounding the offences, but was also duty

bound to consider the similarity between the case of Bilal Saw Mill and the case of the petitioner. However, in the impugned order, dated 07-06-2019, not an iota of word has been written about the case of Bilal Saw Mill. Thus, the respondent No. 3 has clearly failed to carry out the direction of the learned Single Judge in his order dated 29-05-2019, in W.P. No. 10622 of 2019.

Although the learned counsel for the appellants has vehemently pleaded that it was the duty of the petitioner to place the relevant material, but nonetheless, the fact remains that the record of Bilal Saw Mill was equally available with the Department. Therefore, the learned counsel for the appellants is unjustified in claiming that it was for the petitioner to place the relevant material before the Department. Since the records were readily available with the Department, in fact, it was the duty of the Department to compare the case of the petitioner and the case of the Bilal Saw Mill, as directed by the learned Single Judge. Therefore, the learned counsel for the appellants is unjustified in shifting the burden upon the shoulders of the petitioner.

The case of the petitioner is not different from the case of the Bilal Saw Mill. For, according to the Department itself, the stock seized at Bilal Saw Mill worth Rs.4,18,199/-, whereas the stock discovered at the petitioner was Rs.5,11,092/-. Therefore,

even in terms of the value, the case of the petitioner is similar in nature with the case of the Bilal Saw Mill. Hence, the Department should have granted the similar benefit to the petitioner as granted to the Bilal Saw Mill. Hence, the learned Single Judge is certainly justified in noticing in the impugned order that the respondent No.3 (appellant No.3) has not given any reasons as to why the petitioner is not entitled for compounding of the offences on a similar footing as the offences of Bilal Saw Mill were compounded.

For the reasons stated above, this Court does not find any illegality or perversity in the order passed by the learned Single Judge. This writ appeal, being devoid of merit, is hereby dismissed.

As a sequel, miscellaneous petitions, pending if any, stand dismissed as infructuous.

(Raghvendra Singh Chauhan, CJ)

(A. Abhishek Reddy, J)

Dt: 31-01-2020
Lur/pln