



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 17999 of 2013

and

M.P.No.1 of 2013

Kalyani

... Petitioner

-vs-

1. The Member Secretary,
Central Empowered Committee,
Gate No.31, Jawarhalal Nehru Stadium,
Lodhi Road, New Delhi - 110 003.
2. The Chairman,
State Level Committee for WBI (Wood Board India)
in Tamil Nadu,
Chennai.
3. The Forest Range Officer,
District Forest Office,
Nagapattinam.
4. The Licensing Officer,
Wild Life Warden,
Nagapattinam.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for records relating to the proceedings in Na.Ka.No.142/2013 dated 23.05.2013 on the file of the 3rd respondent and quash the same consequently direct the 3rd respondent to forward the application for renewal dated 01.11.2011 to the 2nd respondent as per the directions issued in the orders passed in W.P.(MD).No.8930 of 2012 dated 02.08.2012 on the file of the Court.

For Petitioner : Mr.V.Illanchezian

For Respondent : Mr.E.Vijay Anand

Additional Government Pleader [R3&R4]

Mrs.R.L.Karthika

Government Advocate for R2

R1 Dismissed vide order dated 19.03.2015

O R D E R

The prayer sought for herein is for writ of Certiorarified Mandamus calling for records relating to the proceedings in Na.Ka.No.142/2013 dated 23.05.2013 on the file



of the 3rd respondent and quash the same and consequently direct the 3rd respondent to forward the application for renewal dated 01.11.2011 to the 2nd respondent as per the directions issued in the orders passed in W.P.(MD).No.8930 of 2012 dated 02.08.2012 on the file of this Court.

2. It is the claim of the petitioner, that the petitioner started a Saw mill called N.K.V.K Saw mill some time in the year 1993, after getting necessary permission for licence from the authorities concerned under the erstwhile legislation. Thereafter, according to the petitioner, it has been renewed. However after the year 2010, in view of the new set of Rules that has come into force under which the licence or permission for running a Saw mill should be routed through and the licence is to be obtained only after enquiry by State level as well as Central level Committees constituted in this regard pursuant to the order passed by the Hon'ble Supreme Court of India.

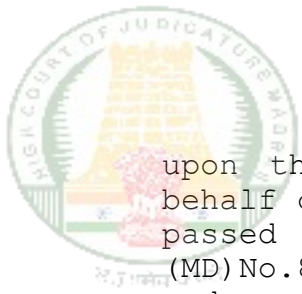
3. Therefore taking into account all those issues especially the order passed by the Hon'ble Supreme Court dated 29.10.2002, the third respondent has sent a communication to the petitioner dated 23.05.2013, whereby, he has stated the following order:

“பார்வையில் காணும் உத்தரவுகளின்படி 30.10.2002-ற்கு முன்பு ஆரம்பிக்கப்பட்ட உரிமம் பெறாமல் இயங்கும் மர அறுவை ஆலைகளுக்கும், 30.10.2002-ற்கு பின்பு ஆரம்பிக்கப்பட்ட மர அறுவை ஆலைகளுக்கும் அவைகள் பதிவு செய்யப்படாமலும் / புதுப்பிக்கப்படாமலும் இயங்கும் பட்சத்தில் அந்த ஆலைகளுக்கு சீல் வைத்து முடுவதற்கு வன உயிரினக் காப்பாளரால் உத்தரவிடப்பட்டுள்ளது. இதன்படி தங்களது NKVK சாமில்லை இயங்காமல் நிறுத்தி வைக்கவும் எந்த சாதணத்தை கொண்டும் சாமில்லை இயக்கக்கூடாது என்றும் கண்டிப்பாக தெரிவிக்கப்படுகிறது.”

4. By virtue of the said communication, the petitioner could not continue to run the Saw mill. Therefore, challenging the said communication, the petitioner has approached this Court by filing the present writ petition.

5. Heard the learned counsel for the petitioner, who, would submit that, the mill was started well before any such regulation had come in either by way of legislation or rules or by directions issued by the Hon'ble Supreme Court some time in 2002. Therefore, the Saw mill of the petitioner started in the year 1993 shall be permitted to continue even after 30.10.2002 and if at all, the licence or permission to be renewed as per the new Rule of 2010, namely, the Tamil Nadu Regulation of Wood Based Industries Rules, 2010 (In short 'the Rules'), the petitioner is ready and willing to make such an application. However, for the said purpose, the Mill of the petitioner cannot be abruptly closed or directed to be closed hence the impugned order is liable to be interfered with.

6. Per contra, Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the respondents, by relying



upon the averments made in the counter affidavit filed on behalf of the respondents and also relying upon a common order passed in a batch of writ petitions dated 02.08.2012 in W.P. (MD)No.8930 of 2012 batch of 2012 in the matter of "N.Aajam and another Vs. The Superintending Engineer, Sivagangai, Sivagangai District and others" would submit that, the 2010 Rules since had come into force in which there is exhaustive procedure has been given as to how the application has to be made afresh or application for grant of licence or transfer of licence or renewal of licence.

7. After the said rule came into effect, since the earlier licence had lapsed already and no renewal application had been filed even under the 2010 Rules and only he challenged the communication sent by the third respondent dated 22.05.2013 and all these years the writ petition has been kept pending before this court, at this point of time, if at all the petitioner wants to continue to run the mill, he can make an application afresh under the provisions of 2010 Rules and if any such application is made, the same would be processed and decided within a time frame that may be stipulated by this Court, he contended.

8. I have considered the said submissions made by learned counsel appearing for both parties and perused the materials placed before this Court.

9. Though the petitioner started the mill by getting licence / approval some time in the year 1993 and he continued to run the same, after the order passed by the Hon'ble Supreme Court on 29.10.2002, without registration or without permission, if any saw mill is being run, that should be closed. Therefore, it has become necessitated for the third respondent to issue the impugned communication dated 23.05.2013.

10. Though the said communication has been challenged in this writ petition, the petitioner has not chosen to note down the necessity to make an application for renewal of licence under 2010 Rules.

11. Under the 2010 Rules, the following three provisions are necessary to be referred and the same reads thus:

"4. Application for grant of licence-(1)
Any person, seeking a licence under these rules, shall make an application to the Licencing Officer in Form-I. The person seeking licence, shall pay such fee as may be specified by the Government from time to time, along with application. The fees paid shall not be refunded under any circumstances.



WEB COPY

(2) The licence shall be granted by the Licensing Officer in form-II after satisfying himself that the application is in accordance with all the regulatory mechanism in force for the time being and that the establishment of wood based industries will not have any adverse impact on forests. The licence will be valid for a period of five years.

(3) No licence for setting up new wood based industries within a distance of two Kilometres from the boundary of any 'forest' whether notified or not, shall be granted, except when it is required for Departmental use. The distance of two kilometres shall be computed from topo sheets as aerial distance as crow flies.

5. Renewal of License-(1) Any person who has been granted licence under these rules, may apply for renewal of the licence in Form-I within a period of three months before the expiry of the period, for which licence was granted to him along with such fee, as may be specified by the Government from time to time. In case the licensing authority, provided a fee equal to double the fee specified by the Government for renewal is paid by the applicant and the application is made before the expiry of the licence. The renewal applications received after the prescribed time limit will be considered and decided by the competent authority as per the guidelines notified by the State Government in this regard from time to time.

(2) On receipt of an application under sub-rule(1), the Licensing Officer, after satisfying himself that the application is in accordance with all the regulatory mechanism in-force for the time being and that the establishment of wood based industries will not have any adverse impact on forests shall renew the licence in Form-II for a further period of five years.

6. Transfer of licence-The licence shall normally be non-transferable. However, transfer of licence can be allowed from one person to another by the Conservator of Forests or Field Director as the case may be in cases of sale, inheritance, division of property, family arrangement and dissolution of partnership, subject to the guidelines



issued by the Principal Chief Conservator of Forests from time to time."

12. Under Rule 4 any person seeking a licence under the Rule shall make an application to the Licensing Officer in Form 1 with some prescribed fee. Once the application is received, the same would be processed under the provisions of the said Rule as well as the judgment of the Hon'ble Supreme Court dated 29.02.2002 and the judgment of this Court dated 02.08.2012 as referred."

13. Herein the case in hand, if at all the petitioner wanted to renew his licence already granted, such an application after the 2010 Rules comes into effect, shall be made under Rule No.5. Even such an application since has not been made by the petitioner, as of now the petitioner cannot seek for any renewal of licence automatically.

14. Moreover, the impugned communication dated 23.05.2013 was issued by the third respondent only pursuant to the order of the Hon'ble Supreme Court dated 29.10.2002. Therefore, the said communication which is impugned to herein is only an execution of the order of the Court and therefore, it cannot be stated that it is unlawful or unjustifiable. Hence, it does not require any interference.

15. But at the same time, insofar as the plea of the petitioner to permit him to continue to run the Saw mill, which he started in the year 1993 itself is concerned, it is open to her to make an application under the 2010 Rules and in such case, the same would be considered and decided in accordance with law by the Licensing Authority within a time frame.

16. In that view of the matter, this Court is inclined to pass the following order:

(i) That the impugned order since is sustained for the reasons discussed above, it does not warrant any interference. Therefore, the writ petition, to that effect, fails and it is rejected.

(ii) However it is open to the petitioner to make an application afresh under Rule 4 of the 2010 Rules to the Licensing Authority in the prescribed format with prescribed fee. If such an application is made, the Licensing Authority / respondent herein shall process the same in accordance with the 2010 Rules as well as the order passed by the Hon'ble Supreme Court and the Order passed by this Court referred to above, and such application, after having considered, shall be decided and



final order to be communicated to the petitioner at the earliest."

17. With these observations and directions this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rap/kst

To

1. The Member Secretary,
Central Empowered Committee,
Gate No.31, Jawarhalal Nehru Stadium,
Lodhi Road, New Delhi - 110 003.
2. The Chairman,
State Level Committee for WBI (Wood Board India)
in Tamil Nadu,
Chennai.
3. The Forest Range Officer,
District Forest Office,
Nagapattinam.
4. The Licensing Officer,
Wild Life Wardenm
Nagapattinam.

+1cc to Mr.V.Illanchezian, Advocate, S.R.No.63402

+1cc to the Government Pleader, S.R.No.64056

W.P. No. 17999 of 2013

NRL (CO)
CT 14/02/2022