



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.18201 of 2021
(Through video conference)

V.Nagarajan

.. Petitioner

Vs.

1.The State Level Committee,
Rep. by its Principal Chief Conservator of
Forests, (Head of Department),
Tamil Nadu, Chennai.

2.The District Forest Officer,
Office of District Forest Officer,
Theni Forest Division,
Theni.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the second respondent in Na.Ka.No.211/2016 D, dated 09.07.2021 quash the same and consequently direct the respondents herein to issue transfer of licence to the petitioner as provided under Rule-6 of the Tamil Nadu Regulation of Wood Based Industries Rules, 2010, in the next meeting of the first respondent scheduled to be held once in three months.

For Petitioner	: Mr.K.Appaduari
For Respondents	: Mr.R.Sureshkumar Government Advocate

ORDER

Prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the second respondent in Na.Ka.No.211/2016 D, dated 09.07.2021 quash the same and consequently direct the respondents herein to issue transfer of licence to the petitioner as provided under Rule-6 of the Tamil Nadu Regulation of Wood Based Industries Rules, 2010, in the next meeting of the first respondent scheduled to be held once in three months.

2.The petitioner purchased a landed property with building and a Saw Mill located at TS.No.2014/2 at Melamangalam Road at Thenkarai Periyakulam Municipal Limit, Periyakulam Taluk, Theni District, by a



registered sale deed, dated 04.06.2018, where the erstwhile owner, that is, the vendor of the petitioner, was already running a Saw Mill for which, he obtained licence from the respondents and the same was time and again, seems to have been renewed and as per the last renewal, the licence was valid up to 31.03.2016.

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3. Subsequently, it seems that the erstwhile owner had not renewed the said Saw Mill licence. Only at that situation, the petitioner purchased the property with the Saw Mill. After purchasing the same, the petitioner made a request to the respondents, that is, the second respondent to transfer the licence in favour of the petitioner, since the petitioner has purchased the property including the Saw mill. The said application was placed for consideration before the first respondent committee, where, they have taken a decision that, since the details of the date of issue of licence and date of expiry, have not been furnished, the State Level Committee was not in a position to make any recommendation to transfer the licence in question to and in favour of the petitioner.

4. Pursuant to the said decision taken by the first respondent committee, the same has been communicated by the second respondent through his order, dated 09.07.2021. Aggrieved by the same, the said order has been challenged by the petitioner in this writ petition with the aforesaid prayer.

5. Heard, Mr.K.Appaduari, learned counsel appearing for the petitioner, who having reiterated the aforesaid, would submit that, if at all the said particulars, which are mentioned in the decision taken by the committee, are required, the petitioner could have been given a chance of producing those documents, however, without giving such opportunity to the petitioner, since a decision has been taken unilaterally by the first respondent committee, the said decision is infirm and therefore, following the same, the present impugned order passed by the second respondent also equally infirm. Hence, the learned counsel seeks indulgence of this Court against the impugned order.

6. However, Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents, on instructions, would submit that the first respondent is a State Level Committee, before whom, such kind of applications for issuance of fresh licence, issuance of renewal of licence as well as transfer of licence, had been placed, where, decision had been taken, insofar as the petitioner's application also, where the aforesaid reasons had been stated.

7. The learned Government Advocate would further point out that, the licence of the original owner of the Saw Mill, that is, the vendor of the petitioner, as per the last renewal, dated 09.09.2011, was valid only up to 31.03.2016, and on that day, the licence, admittedly expired., thereafter, no application has been filed by



the erstwhile owner to renew the licence, within the time as stipulated under the Rules called, Tamil Nadu Regulation of Wood Based Industries Rules, 2010 (in short, 'the Rules'). Such an application should have been filed for transfer of licence with all particulars including the existing licence of the erstwhile owner. Since such particulars had not been given, even if such particulars had been given, as the licence already expired by 31.03.2016 and the same has not been renewed, and no application was filed in time as contemplated under the Rule, the application for transfer of the licence, which has already been expired, does not have any effect for consideration and therefore, for that reason also, the impugned rejection is sustainable, the learned Government Advocate contended.

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

9.The relevant Rules of the said Rules are Rule 4, 5 and 6, which reads thus:

"4.Application for grant of licence-(1) `Any person, seeking a licence under these rules, shall make an application to the Licensing 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.

(2) The licence shall be granted by the Licencing 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 kilometers 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 kilometers shall be computed from topo sheets as aerial distance as crow flies.

5.Renewal of Licence-(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. Incase the licensee



the stipulated period, renewal of licence can be considered by 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 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 Principle Chief Conservator of Forests from time to time."

10.Under Rule 6, the licence, which are normally non-transferable can be transferred in certain circumstances, like sale, inheritance, etc. Since in the case in hand, it is the sale of property, therefore, transfer of licence is possible under Rule 6, for which, the application has been filed by the petitioner, which has been rejected now through the impugned order.

11.However, the reasons stated by the first respondent committee is that, when the licence was granted, when it was expired, has also not been given, without these particulars, the plea of the petitioner cannot be considered, accordingly, it was rejected.

12.Though, in this context, the learned counsel appearing for the petitioner would submit that, if a chance had been given to the petitioner to produce those documents, he would have been in a position to produce the same, however, the fact remains that the licence expired as early as on 31.03.2016, thereafter, it was not renewed. How to renew a licence is provided under Rule 5, wherein, before three months of the expiry, application should have been made and if such application was not made before the expiry of three months and belatedly, it is made, that application can be



accepted only up to the date of expiry of the licence, that too, on payment of double the licence renewal fee.

13. Here in the case in hand, admittedly, no application for renewal was filed before three months of expiry by the erstwhile owner, also he did not choose to file application before the expiry of licence as it was expired in the year 2016 itself. Therefore, after five years of expiry of the licence, at this stage, it cannot be stated that the licence is having life and therefore, it can be transferred in the name of the petitioner. Therefore, even if such a chance is given to the petitioner, he cannot improve the case and therefore, the said reasons cited by the petitioner's counsel as one of the ground to urge against the impugned order, in view of the aforesaid facts and circumstances, cannot be countenanced.

14. Therefore, insofar as the prayer of the petitioner to quash the impugned order and to give a direction to transfer the licence in favour of the petitioner is concerned, that does not arise. Hence it is liable to be rejected, accordingly, it is rejected.

15. However, under Rule 4 of the aforesaid Rules, any one can make an application for grant of licence, and if such application is made by the petitioner afresh to get a licence afresh, then, it can be considered in accordance with law, especially, under the Rules referred to above, by the first and second respondents. In that view of the matter, this Court is inclined to dispose of the writ petition with the following orders:

"that the writ petition, in view of the aforesaid reasons, fails, therefore, it is dismissed. However, it is open to the petitioner to make an application, under Rule 4 of the said Rules, to get a fresh licence, to the respondents, if any such application is made, the same shall be considered by the first respondent committee and orders shall be passed thereon, on merits and in accordance with law, within the reasonable time."

16. With these observations, the writ petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AE)

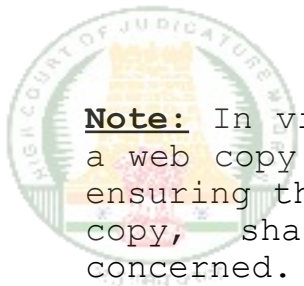
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Sub Assistant Registrar (CS)

PJL

<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1.Principal Chief Conservator of Forests, (Head of Department)
The State Level Committee,
Tamil Nadu, Chennai.

2.The District Forest Officer,
Office of District Forest Officer,
Theni Forest Division,
Theni.

+1 CC to M/s.K.APPADURAI, Advocate (SR-31365[F] dated 06/10/2021)

+1 CC to M/s.SPL.GP (SR-31513[F] dated 07/10/2021)

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