

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10509 of 2021

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Akhilesh Kumar, Son of Bhuneshwar Mistri, Resident of Paliganj, P.s.-
Paliganj, District- Patna, Proprietor of M/s Vishwakarma Saw Mill, Paliganj,
P.s.- Paliganj, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna
2. The Chairman of the State Level Committee for Wood Based Industries, Bihar-cum-Principal Chief Conservator of Forest, Bihar
3. The Conservator of Forest, Patna Circle, Patna
4. The Divisional Forest Officer, Patna Forest Division, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinay Mistry, Advocate
For the Respondent/s : Mr.Lalit Kishore, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 04-01-2022

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

“(i) For issuance of writ in the nature
of certiorari for quashing of the order bearing
Letter No. 182 dated 3.2.2021 (Annexure-P/4)
passed by the Conservator of Forest, Patna Circle,



Patna whereby the appeal filed by the petitioner against the order bearing Letter No.3306 dated 6.11.2020 (Annexure-P/2) issued by the Divisional Forest Officer, Patna Forest Division, Patna whereby the application for grant of new saw mill license has been refused without approval of the State Level Committee constituted under the Chairmanship of the PCCF, Bihar.

(ii) For issuance of a writ in the nature of mandamus directing the respondent authorities to accept the application for grant of new saw mill license under the Bihar Saw Mills (Regulation) Act, 1990 and the Rules framed thereunder and after getting approval from the State Level Committee, the Licensing Officer be directed to issue new saw mill license to the petitioner in the facts and circumstances of the case.

(iii) For issuance of such other writ(s), order(s), direction(s), as your Lordships may deem fit and proper.”

Learned counsel for the petitioner states that prior to the decision and passing of the impugned order dated 3rd of February, 2021, no opportunity of hearing in the appeal preferred by the petitioner was ever afforded nor any notice issued for hearing the appeal. The impugned order is actually in the nature of a communication which we reproduce as under:



ANNEXURE-P/4 २१

कार्यालय, वन संरक्षक, पटना अंचल, पटना
अरण्य भवन, द्वितीय तल, सहोद पौर अस्सी चौ मार्ग (वर्डींग रोड) पटना- 800014
Ph. No. 0612-2220152, e-mail- dfstracircle@gmail.com

पत्रांक- 182 /

प्रेषक,
श्री० गोपाल सिंह, ~~वन संरक्षक,~~
वन संरक्षक,
पटना अंचल, पटना।

सेवा में,
श्री अखिलेश कुमार,
पिता-भुनेश्वर मिस्त्री,
मेसर्स विश्वकर्मा सौ मिल,
ग्राम+थाना-पालीगंज,
जिला-पटना, पिन-601110

दिनांक 3 / 2 / 2021

विषय :- अपील अभ्यावेदन से संदर्भित।

प्रसंग :- आपका अपील अभ्यावेदन दिनांक 23.12.2020

महाशय,

उपर्युक्त विषय के संबंध में सूचित करना है कि आपका अपील अभ्यावेदन दिनांक 23.12.2020 इस कार्यालय में दिनांक 19.01.2021 को प्राप्त हुआ है। आपके द्वारा समर्पित अपील अभ्यावेदन की समीक्षा की गयी, उक्त अपील अनुज्ञापन पदाधिकारी -सह- वन प्रमदल पदाधिकारी, पटना वन प्रमदल, पटना के कार्यालय पत्रांक 3306 दिनांक 16.11.2020 द्वारा पारित आदेश के विरुद्ध अपीलीय प्रार्थीकार -सह- वन संरक्षक, पटना अंचल, पटना के न्यायालय में की गई है।

विदित हो कि माननीय उच्चतम न्यायालय द्वारा Civil writ No. 202/95 टी. एन. गोदावर्तन तिरुभूलपाद बनाम भारत संघ एवं अन्य में समय-समय पर पारित आदेश के अनुपालन में दिनांक 12.12.1996 के बाद नई आरा मिल/आरा गड़ड़ा अनुज्ञप्ति निर्गत करने पर रोक लगा दी गई है।

अतः आपके द्वारा समर्पित अपील अभ्यावेदन को अस्वीकार किया जाता है।

विश्वकर्माजी,

(श्री० गोपाल सिंह)

Passing of the order entails civil consequences inasmuch as petitioner's application for grant of saw mill licence stands rejected.

On this short ground alone, principles of natural



justice stand violated. As such, on this short ground alone, we quash and set aside the impugned order dated 3rd of February, 2021 passed by the Forest Conservator, Patna Circle, Patna (Annexure-4) reproduced (supra) with the following directions:

(a) Petitioner shall appear before the appellate authority on 28.01.2022 on which date, date for hearing of the appeal shall be fixed;

(b) Liberty reserved to the parties to place additional materials in support of their contentions;

(c) Appeal will be decided on merits by a reasoned and speaking order, copy whereof shall be supplied to the petitioner;

(d) Liberty reserved to take appropriate steps to challenge the same, should the need so arise subsequently.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/K.C.Jha

AFR/NAFR	
CAV DATE	
Uploading Date	08.01.2022
Transmission Date	

