

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7906 OF 2022

M/s Charidham Company, Berhampur* *Petitioner
Ms. Soma Patnaik, Advocate

-versus-

State of Odisha and others* *Opp. Parties
Mr. Suvashish Pattanaik,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

Order No.

ORDER
04.08.2022

6. 1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for a direction for issuance of license to establish and operate its unit, which is a wood based industry at Auto Nagar-II, Berhampur in Ganjam as per the decision taken by the State Level Committee in its first meeting dated 18th August, 2018 and 2nd meeting dated 9th January, 2019.
3. Ms. Patnaik, learned counsel for the Petitioner submits that Petitioner is a wood based industry. Its production is based on imported timber. Considering the application to establish the wood based industry, the State Level Committee in its meetings dated 18th August, 2018 and 9th January, 2019 recommended the case of the Petitioner for issuance of license to operate the industry with imported timber. Accordingly, land was also allotted in favour of the Petitioner-industry in industrial estate at Auto Nagar-II, Berhampur. Petitioner has invested more than

Rs.75,00,000/- to establish the industry. When the industry is ready to operate, authorities, more particularly the Divisional Forest Officer, Berhampur Forest Division–Opposite Party No.5 is not granting license to the Petitioner to operate the said industry. It is submitted by Ms. Patnaik, learned counsel that although the Petitioner industry has already imported timber and invested huge amount on men and machineries, due to bottleneck created by Opposite Parties, it is unable to operate the industry. As such, the Petitioner is sustaining huge loss every day.

3.1 It is her submission that as per the guidelines/resolution dated 11th September, 2017 issued by the Ministry of Environment, Forest and climate Change, New Delhi, Petitioner industry being based on imported timber does not require a license to operate. Relevant portion of amended resolution is quoted hereunder:-

“The entries under Para-8 of the Guidelines are substituted with the following:--

- i. No license to a wood based industry shall be granted or renewed without obtaining prior approval of the SLC. However, a SLC may delegate the power of renewal of license to a wood based industry to the Divisional Forest Officers of the concerned Forest Divisions.*
- ii. Following industries/processing plants not using round logs of domestic origin or operating without a hand saw or re-saw or circular saw of more than thirty centimeter diameter shall not require license.*

Industries/processing plants which use:

- a. Sawn timber, cane, bamboo, reed, play wood, veneers or imported wood, procured from legitimate sources,*
- b. Block board, MDF or similar wood based products, procured from legitimate sources,*

- c. Round log/timber from species declared as agro-forestry/agricultural crops and/or exempted from the purview of the jelling and transit regime in the concerned state/UT, and procured from legitimate sources;*

However, SLC of the concerned State may allow installation of circular saw of diameter upto 60 centimeter in such industries having specialized requirement.

Such industries shall be registered with the Forest Department of the concerned state/UT and shall be regulated, details of which are to be prescribed by the concerned state/UT.

- iii. Transfer of license on sale/succession etc. shall be done only with the approval of SLC.”*

Thus, technically the Petitioner does not require a license to operate the industry. However, the Petitioner-unit being set up in the industrial estate and is a wood based industry, it has made an application for grant of license to operate, which is pending consideration on the plea that assessment of availability of timber for wood based industry is required to be considered for issuance of license and the said assessment is yet to be completed. It is submitted by Ms. Patnaik, learned counsel for the Petitioner that the Petitioner-industry has nothing to do with the assessment of availability of timber from local forest, as it is an industry based on imported timber and it has already imported timber to start operation, which is lying in its premises. In that view of the matter, she prays for a direction either to issue license at an early date or to allow the Petitioner industry to operate awaiting issuance of license in its favour, failing which it will suffer a huge loss for the inaction of the Opposite Parties.

4. Mr. Pattnaik, learned AGA submits that Petitioner-industry is based on imported timber and considering the same State Level Committee has recommended establishment of the industry. Since the Petitioner has applied for license, it has to be considered in accordance with law as per the guidelines quoted above. It is a fact that the Petitioner-industry does not require timber from local forest, as its operation is based on imported timber. Since the assessment of availability of timbers for wood based industries is yet to be completed no license can be issued in favour of the Petitioner-industry at this juncture.

5. Taking into consideration the rival contentions of the parties, this Court finds that Petitioner-industry is a wood based industry, which depends upon imported timbers to operate. It does not require timbers from local forest to run its industry. It is, however, observed that for issuance of license in favour of the Petitioner, as applied for, assessment of availability of timbers is required to be taken into consideration. Such assessment is still not complete.

5.1 Be that as it may, when the Petitioner-industry is based on imported timber and it does not require timbers from local forest, concerned authority should consider its case for grant of permission for its operation.

6. In view of the above, the writ petition is disposed of with a direction to DFO, Berhampur Forest Division, Berhampur-Opposite Party No.5 to consider the case of the Petitioner keeping in mind the observation made herein above as expeditiously as possible, preferably within a period of one month from the date of

production of certified copy of this order and pass a reasoned order thereon and result thereof shall be communicated to the Petitioner forthwith.

7. With the observation and direction, as aforesaid, the writ petition is disposed of.

8. As requested, free copy of this order shall be made available to Mr. Pattnaik, learned AGA for communication and compliance.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

