

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.10065 Of 2022**  
**(Through hybrid mode)**

***Narendra Samal***

....

***Petitioner***

Mr. P.R. Chhatoi, Advocate

*-versus-*

***State of Orissa and others***

....

***Opposite Parties***

Mr. A.K. Sharma, AGA

Mr. B.B. Mohapatra, Advocate

**CORAM: JUSTICE ARINDAM SINHA**

**ORDER**  
**13.07.2022**

**Order**

**No.**

**3.**

1. Mr. Chhatoi, learned advocate appears on behalf of petitioner and had on 19<sup>th</sup> May, 2022 moved the writ petition upon earlier having obtained addition of opposite party no.5. He submitted, added opposite party no.5 had obtained licence in Form-C for operating established Saw Mill/Saw Pit. His client entered into partnership with said opposite party. His client approached the authority for change of name from proprietorship of added opposite party no.5 to partnership and wanted issuance of notice/correspondence be addressed to his client as managing partner. He relies on memo dated 28th October, 2011, contents of which are reproduced below.

*“In inviting a reference to the memo cited above on the captioned subject, I am to inform you that an application has been received from the CEC for change of proprietorship of M/S Shree Sarala Industries, Jagatsinghpur to Partnership with Mr. Narendra Kumar Samal as the Managing Partner and Sri Devram Patel as partner. Therefore, all correspondence will be made in the name of Mr. Narendra Kumar Samal as the Managing Partner.*

*This is for favour of kind information and necessary action.”*

He submits, in spite of issuance of said memo, change of name has not been effected by the authority.

2. Mr. Mohapatra, learned advocate appears on behalf of added opposite party no.5, in whose name the licence stands. He had submitted that his client has no objection if there is change of name effected by the authority.

3. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and draws attention to memo dated 1<sup>st</sup> July, 2013, from which first two paragraphs extracted and reproduced below.

*“With reference to the subject cited above, this is to inform you that consequent upon selection of saw mill*

*for rehabilitation and recommendation by the C.C.F. (P&SM), O/O the PCCF, Odisha and your application dt.08.01.2013 the licence bearing **No.24/2013** is issued in your favour under the provisions of Section 7 of Orissa Saw Mill and Saw Pit (Control) Act 1991 and Rule 4 of 1993.*

*The validity period of the licence is **up to 30.06.2015** and the licence in original along with the Terms and Conditions is enclosed herewith for the purpose. Please maintain the register properly and submit return in time and also abide by the rules of Orissa Saw Mill and Saw Pit (Control) Act 1991 & Rules 1993 and conditions as stipulated in Form No. 'C' and terms and conditions as per the provisions of the said Rules appended herewith."*

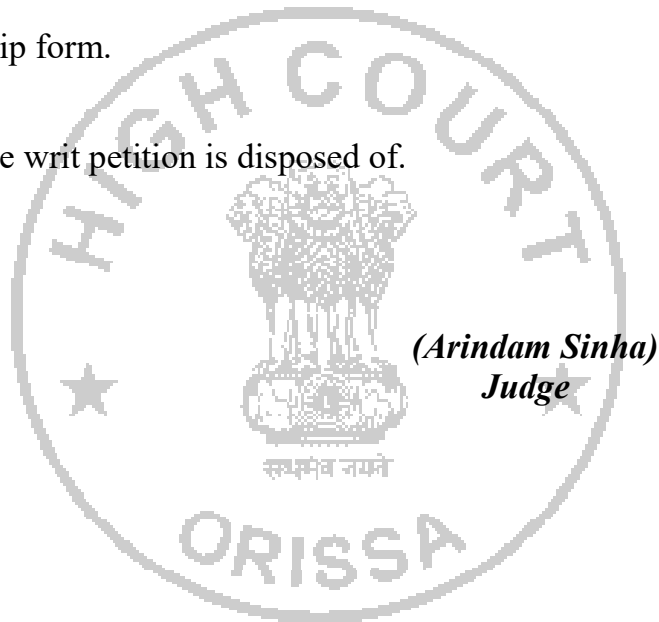
He submits, the licence was renewed from time to time and is subsisting. With reference to page-19 in the counter he demonstrates terms and conditions accompanying the licence. First term says, the licence is not transferable.

4. Mr. Chhatoi replies that Form-C itself requires applicant's name and father's name in full and in case of company, names of partners and persons holding power. He reiterates, all that happened is the proprietorship was converted to a partnership, under the same name. Therefore, his client wants his name to be substituted in place of added opposite party no.5, in the licence.

5. On query from Court Mr. Chhatoi has not been able to produce a judicial view or declaration of law saying that a proprietorship of a individual, when converted to be an association of persons, as his partnership, seeking consequent change in licence obtained by the individual, would not amount to transfer.

6. The writ petition is disposed of with observation that petitioner is at liberty to apply for fresh licence in his name in respect of the partnership form.

7. The writ petition is disposed of.



Sks