

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 24830 OF 2022

Maheswar Behera

.... Petitioner

Mr. B. Biswal, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

19.12.2022

Order No.

6.
 1. This matter is taken up through hybrid mode.
 2. The grievance of the Petitioner in this writ petition is with regard to inaction of Divisional Forest Officer, Deogarh Forest Division, Deogarh and Range Officer, Khamar in taking steps pursuant to letter dated 15th July, 2022 (Annexure-6) issued by the Tahasildar & Executive Magistrate, Pallahara to the Divisional Forest Officer, Deogarh Forest Division furnishing joint verification report, letter dated 22nd July, 2022 (Annexure-7) issued by the Divisional Forest Officer, Deogarh Forest Division to the Petitioner to submit the conversion list of recorded Holding Plot No.1630/1901 under Khata No.50 of village Kurumula applied by the Petitioner to issue T.T. permit and the conversion list (Annexure-8) annexed to the writ petition.
 3. Taking into consideration submission made by learned counsel for the Petitioner, this Court vide order dated 24th September, 2022 directed learned State Counsel to take instruction in the matter. When the matter came up on 19th

October, 2022, learned State Counsel submitted that while preparing to file counter affidavit, it appears that some of the documents annexed to the writ petition have been forged and an enquiry is in progress to find out the truth. Accordingly, the matter was adjourned to 17th November, 2022 on which date learned State Counsel submitted that enquiry is going on as instructed by the Divisional Forest Officer, Deogarh Forest Division and hence, further adjournment was sought for.

4. Today, Mr. Mishra, learned Additional Standing Counsel produces a copy of the enquiry report along with documents in a sealed cover before this Court, which is opened in presence of learned counsel for the parties. Mr. Mishra, learned Additional Standing Counsel refers to Clauses-2 and 16 of the enquiry report, which read as under:

*“2. During the verification of the case file of the petitioner Shri Maheswar Behera, it was confirmed that the Memo No.4164 dated 22.07.2022 (annexed by the petitioner in the WP© No.24830/2022 as Annexure-7) have **not been issued from the office of the DFO, Deogarh. This is completely a non-authentic and forged letter.** There is no note record of the issuance of such letter from the office of the DFO, Deogarh (Photocopy of the note-sheet is attached herewith as **Annexure-IV**).”*

*“16. Further, while checking the joint verification report (annexed as Annexure-6 in the writ petition by the petitioner which has not been received in the office of the DFO, Deogarh) it was observed that RO Khamar have signed the report on 13.07.2022, Tahasildar, Pallahara have signed the same on 15.07.2022, the revenue inspector and revenue supervisor have signed the report on dated 08.06.2022 **which indicates that actually verification has not been conducted jointly.**”*

5. Mr. Mishra, learned Additional Standing Counsel also submits that pursuant to the enquiry report, two of the employees, namely, Hemanta Bariha, Forester, Khamar Section under Khamar Forest Range and Shri Aswasthama Sahoo, Junior Accountant, Deogarh Forest Division have already been put under suspension contemplating disciplinary action for committing forgery of official documents. Criminal action against the culprits is yet to be taken due to pendency of the writ petition. He, however, submits that in view of the aforesaid enquiry report, the prayer made in this writ petition should not be granted.

6. Mr. Biswal, learned counsel for the Petitioner also produces a copy of the letter dated 5th December, 2022 before this Court stating that a joint verification has already been made during pendency of the writ petition. Hence, there is no difficulty in issuing T.T. permit in respect of converted timbers. For better appreciation, the contents of the Letter No.6139 dated 5th December, 2022 issued by the Enquiry Officer-cum-Assistant Conservator of Forests, Deogarh Forest Division is reproduced hereunder:

“OFFICE OF THE DIVISIONAL FOREST OFFICER
DEOGARH FOREST DIVISION

Phone No.06641-226403/226503 Fax-06641-226403 (OFFICE/FAX)
Letter No.6139 3F (Lease)/Dated 05 December, 2022

To

The Tahasildar, Pallahara.

Sub:- Joint verification of the sport of tree felled with respect to WP (C) No.24830 of 2022.

With reference to the letter cited above on the captioned subject, it is to inform you that an enquiry committee has been formed under the chairmanship of undersigned to enquire into the matter in details to

enable the office of the DFO, Deogarh to file the necessary counter affidavit in Hon'ble high court. In this regard the enquiry committee will be under taking the site inspection of the spot where tree felling has happen.

Hence, you are requested to attend the Joint verification of the spot on date 07.12.2022 at 3.00 P.M.

This is for information and further action.

Sd/-05.12.22

*Enquiry Officer-Cum-
Asst. Conservator of Forests,
Deogarh Forest Division*

7. Taking into consideration the rival contentions of the parties, this Court finds that there exists highly disputed questions of fact involved in this writ petition. Moreover, a serious allegation of forgery of official records has been alleged. In that view of the matter, the prayer made in this writ petition cannot be granted.

8. While disposing of the writ petition without entertaining the prayer made therein, this Court observes that action both departmental and criminal, as necessary, may be taken against the culprits following due procedure of law. The enquiry report of the D.F.O., Deogarh Forest Division produced before this Court shall form a part of the record.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks