



W.P(MD).No.17054 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.17054 of 2022

M.Kalidoss

... Petitioner

Vs.

- 1.The Additional PCCF (Central),
Ministry of Environment, Forest and Climate Change,
Regional office, (SEZ),
1st and 2nd Floor,
Handloom Export Promotion Council,
No.34, Cathedral Garden Road,
Nungambakkam,
Chennai – 600 034.
- 2.The State of Tamil Nadu,
Represented by Principal Secretary,
Department of Environment,
No.1, Jeenis Road, Panagal Building,
Ground Floor,
Saidapet,
Chennai – 600 015.
- 3.The District Collector,
Tirunelveli Circle,
Kokkirkulam,
Tirunelveli – 9.



W.P(MD).No.17054 of 2022

4. The District Forest Officer,
Tirunelveli Division,
NGO 'A' Colony,
North Main Road,
Tirunelveli – 627 007.

5. The Conservator of Forests,
Tirunelveli Circle,
NGO Colony,
Tirunelveli – 627 007.

6. The Divisional Forest Officer,
Social Forestry Division,
North Main Road,
NGO (A) Colony,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent herein to consider the petitioner's request for issuing Saw Mill Licence, based on the petitioner's Application dated 20.12.2016 and subsequent modification made in the Application on 04.02.2022.

For Petitioner : Mr.D.Srinivasa Ragavan

For R-2 to R-6 : Mr.R.Suresh Kumar,
Additional Government Pleader.



W.P(MD).No.17054 of 2022

ORDER

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This Writ Petition has been filed for issuance of a Mandamus seeking for issuance of Saw Mill Licence, based on the petitioner's Application dated 20.12.2016 and subsequent modification made in the Application on 04.02.2022.

2. The learned counsel for the petitioner submitted that the petitioner made an application dated 27.03.2017 to the District Forest Officer seeking permission to install a Saw Mill in the name of 'Abirami Saw Mill and Wood Works'. On his application, the State Empower Committee had visited and conducted an inspection on 06.07.2017 and given a report that the Saw Mill located within 800 metres from the reserved forest. Citing the same, the petitioner's application was rejected by the District Forest Officer on 10.11.2017. In the rejection order, the petitioner was directed to file an appeal before the first respondent. The petitioner had filed an appeal in F.No.11.6/ROSEZ/FCA/WBIA/TN/2020-21(Part-X)/036. The appellate authority, had heard the appeal since there was also a direction in



W.P(MD).No.17054 of 2022

W.P.(MD).No.18325 of 2021 to decide the matter and directed the appellate authority to consider and dispose of the petitioner's appeal within a period of eight (8) weeks. Further, the appellate authority referring to the amendments to the Tamil Nadu Regulation of Wood Based Industries Rules, 2010 made as per G.O.Ms.No.16 Environment and (FR-13) Department dated 07.02.2020 had found that the petitioner Saw Mill would come under the category of new license and as per the existing rules and regulations, no new license can be granted till the wood balance study is finalized, hence, after completion of wood balance study, the appellant is free to approach the State Level Committee for taking further action on the application submitted by him for issuing of New License for operating the wood based industry as per the relevant rules and guidelines in force. With the above observations, the appeal was disposed of on 07.01.2022 against which the petitioner further submitted that the petitioner in his sworn affidavit filed before the appellate authority had categorically stated that the petitioner intends to use only “ Rubber Wood / Imported Wood ” in his Saw Mill business. This fact has not been considered and the appellate authority on a wrong premise has proceeded as though the petitioner has going to use the locally sourced wood. Hence, challenged the order of the appellate authority.



W.P(MD).No.17054 of 2022

3. The learned Additional Government Pleader appearing for the respondents 2 to 6 drew the attention of this Court to the Tamil Nadu Government Gazette No.323 and submitted that as per the Government Order, if any person aggrieved on rejection of their application for operating a Saw Mill are to file an appeal for refusal or renewal to grant license and the appeal to be preferred to the Conservator of Forest or Field Director of Tiger Reserve as the case may be. Thereafter, an amendment to the notification was brought in the Tamil Nadu Regulation of Wood Based Industries Rules, 2010 made as per G.O.Ms.No.16 Environment and (FR-13) Department dated 07.02.2020, as per Rules 12, any person who has been refused for grant of license or renewal of license, transfer of license, shifting of wood based industries under Rule 4, 5, 6 and 11 to prefer an appeal to the Government. In view of the same, the petitioner to file an appeal to the State Level Committee under Rule 3-A . Thereafter, they shall pass the appropriate orders.

4. I have considered the matter in light of the submissions made by learned counsels for both the parties and perused the records.



W.P(MD).No.17054 of 2022

WEB COPY

5. It is seen from the records that in the earlier rejection order dated 10.11.2017 passed by the District Forest Officer had directed the petitioner to prefer an appeal before the Additional Chief Conservator of Forest, Government of India. For that reason, the petitioner had filed an appeal and thereafter the first respondent had directed the petitioner to approach the State Level Committee in view of G.O.Ms.No.16 Environment and (FR-13) Department dated 07.02.2020 amendment brought in Tamil Nadu Regulation of Wood Based Industries Rules, 2010. In view of the same, the petitioner has to now approach the State Level Committee by filing an appeal on the orders of the District Forest Officer, Tirunelveli dated 10.11.2017. The petitioner earlier approached the wrong forum due to misdirection for which the petitioner cannot be allowed to suffer. In view of the same, this Court condones the delay in approaching the State Level Committee as per the amendment brought in Tamil Nadu Regulation of Wood Based Industries Rules, 2010. Hence, the delay is condoned.



W.P(MD).No.17054 of 2022

WEB COPY

6. Therefore, this Court directs the petitioner to approach the State Level Committee as per the amendments brought in Tamil Nadu Regulation of Wood Based Industries Rules, 2010 dated 07.02.2020 within a period of (30) thirty days from the date of receipt of a copy of this order and thereafter, the State Level Committee to consider the petitioner's appeal and dispose of the petitioner's appeal within a period of (3) three months therefrom. This three months is only an outer limit.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

02.08.2022

Index : Yes / No
Internet : Yes/ No
Nsr



W.P(MD).No.17054 of 2024

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WEB COPY



W.P(MD).No.17054 of 2022

M.NIRMAL KUMAR, J.

Nsr

W.P(MD).No.17054 of 2022

02.08.2022