

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16608 of 2019

1. The State of Bihar Through the Principal Secretary, Department of Environment and Forest, Government of Bihar, ARanya Bhawan, Riding Road, Patna.
2. The Principal Secretary Department of Environment and Forest, Government of Bihar, Aranya Bhawan, Riding Road, Patna.
3. The Divisional Forest Officer Samastipur Forest Division, Samastipur.
4. The Ranger Samastipur Forest Range, Samastipur.

... .. Petitioner/s

Versus

M/s Jai Bharat Saw Mill Bahadurpur, P.S. Samastipur, District- Samastipur, a proprietorship firm through its Proprietor, Bipin Kumar Sharma, s/o late Yogendra Thakur, resident of Bahadaurpur, P.s. Samastipur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajat Kumar Tiwari, AC to AAG-13)
For the Respondent/s : Mr. Vinay Mistry, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 27-07-2023 Heard Mr. Rajat Kumar Tiwary learned AC to AG 13
and Mr. Vinay Mistry who represent the respondent no. 1.

It is the peculiar case in which the Principal Secretary, of the Environment and Forest, Government of Bihar, Patna has knocked the doors under Article 226 of the Constitution of India for setting aside the order passed by the Conservator of Forest-cum-Authority, Muzaffarpur, in Appeal No. 01 of 2010 on 30.10.2010 (Annexure P-P/1 of the writ petition) by which the earlier order passed by the Divisional Forest Officer-cum-Licensing Authority Forest Division, Begusarai rejecting the



application for issuance of license for Saw Mill was interfere with.

It is the contention of the learned AC to AAG 13 that pursuant to the direction of Hon'ble Supreme Court of India, no fresh licenses for any Saw Mill across the country could have been granted after the cut off date of 01.05.1990.

In the case of the respondent no. 1, admitted fact is that he was illegally running Saw Mill and for the first time, he made an application for grant of license only in the year 1994 and as such in view of the bar put by the Hon'ble Supreme Court of India (01.05.1990), the Divisional Forest Officer rightly rejected his application for grant of license.

However, in appeal, the Conservator of Forest Cum-Appellate Authority, Muzaffarpur Circle, Muzaffarpur set aside the said order and the matter was referred to the Selection Committee to consider his case.

He as such submits that in the background of admitted fact that after 01.05.1990, no fresh license could have been issued, the Conservator of Forest clearly erred in passing an order for putting his case before the Selection Committee. He as such wants the said order to go.

Learned counsel appearing for respondent no. 1



submits that the petitioner is challenging the order of the Conservator of Forest without impleading him as party-respondent and as such, this case is fit to be dismissed for non-joinder of necessary party.

His next submission is that he was running the Saw Mill prior to 1990 and in that background, his case was rightly sent to the Selection Committee and there is no error in it.

Having heard both the parties, this court could have dismissed the petition outrightly on the ground of non-joinder of necessary party *inasmuch* as while asking for setting aside the order of the Conservator of Forest-Cum-Appellate Authority, Muzaffarpur Circle, Muzaffarpur, the said authority has deliberately not been made party-respondent and the petition is by the State of Bihar through its Principal Secretary, such error cannot overlooked.

However taking into account the submissions put forward by the learned State counsel that the petitioner was not a licensee till 01.05.1990 which is the cut off date and the Conservator of Forest overlooked the same, it would be appropriate that the matter is referred to the Chief Secretary, Govt. of Bihar, Patna to take a final call. He will also look into the matter whether in such cases where any wrong order has



been passed by any authority, is it appropriate for the higher authority to knock the doors of Patna High Court instead of bringing the said to the notice of the State Govt so that an appropriate step/order can be passed in the matter.

The entire files relating to the case of the petitioner as also the subsequent orders be placed before the Chief Secretary, Government of Bihar, Patna within four weeks from today by the writ petitioner who shall pass a final order thereafter.

The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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