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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

934 CIVIL APPLICATION NO.14264 OF 2023
IN WP/14252/2023

THE DEPUTY DIRECTOR GENERAL OF FORESTS (CENTRAL)
AND HEAD OF THE REGIONAL OFFICE, MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE, NAGPUR
VERSUS
M/S SIDDHESHWAR PRAKRIYA UDYOG THROUGH ITS
PROPRIETOR MANGESH MADHUKAR POTGHAN AND
OTHERS

AND

935 CIVIL APPLICATION NO.14267 OF 2023
IN WP/14214/2023

THE DEPUTY DIRECTOR GENERAL OF FORESTS (CENTRAL)
AND HEAD OF THE REGIONAL OFFICE, MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE, NAGPUR
VERSUS
MS INDURAO SANDAL PRODUCTS MANUFACTURING
THROUGH ITS PROPRIETOR AND OTHERS

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Mr Ajay G. Talhar, DSGI for Applicant
Mr Rajendra Deshmukh, Senior Advocate i/b Mr Amol R. Joshi,
Advocate for Respondent No.1
Mr S. K. Tambe, A.G.P. for Respondent Nos.2 & 3

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 1st December, 2023

PER COURT:

1. We have heard the learned D.S.G.I. on behalf of the Applicant and the learned Senior Advocate on behalf of the Original Petitioners, in both the Petitions.

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2. We need to clarify that, paragraph 2 of our order dated 08/11/2023, passed in both the Writ Petitions, does not in any way convey, as if the learned D.S.G.I. has granted a concession to the Petitioners to utilize Sandal wood procured from the Sandal wood trees grown within the limits of the agricultural fields of the Petitioners. That is the actual position of law. The statement made based on a legal position, cannot be interpreted to mean any concession being granted by a legal representative.

3. The learned D.S.G.I. has placed on record a copy of the communication dated 13/11/2023, received by him from Shri C. B. Tashildar, Assistant Inspector General of Forests (Central) Regional Office, Ministry of Environment, Forest and Climate Change, Nagpur. In paragraph Nos.6, 7 and 8 of the said communication, the said Authority has stated as under :-

“6. It is requested to plead before the Hon'ble High Court that the SLC (Respondent No. 2) may be directed to carry out a correct assessment of available timber for the State of Maharashtra within a prescribed time limit before granting licenses to new wood based industries, which is an easy solution to the problems faced by applicants of new wood-based industries.

7. It is requested to plead before the Hon'ble High Court that the SLC has been constituted to consider and issue

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licenses to wood-based industries. Granting permissions for felling of sandalwood trees is not within the mandate of the SLC. The aspect of felling is to be looked after by the State Forest Department. The applicants can approach the SLC only for seeking licenses for the establishment of wood-based industries.

8. The act of granting license to a new wood-based industry without assessment of available timber will be viewed as contempt of the Hon'ble Supreme Court's Orders as mentioned above, as General Direction issued by the Hon'ble Supreme Court in Order dated 04/03/1997 is still in force. Therefore, any submission made in contempt of the Hon'ble Supreme Court's Orders is requested to be withdrawn."

4. Our attention is drawn to the provisions of the Maharashtra Felling of Trees (Regulation) Act, 1964 (for short 'the Maharashtra Act of 1964'), more particularly, the Schedule below Section 2(f), which indicates the entry of Sandal tree at Sr. No.8.

5. The learned Senior Advocate points out the Government Resolution dated 23/10/2019, by which, a Committee was constituted for suggesting improvements on subjects related to forests. The 5 members of the Committee are set out in the said Government Resolution. He then points out

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Clause 7 of the said Government Resolution, which reads as under :-

“७. समितीच्या कार्यक्षमधील विविध बाबींच्या चर्चेसाठी राज्यस्तरावर कार्यशाळेचे आयोजन करण्यासाठी वित्तीय तरतूद करणे आवश्यक आहे. त्याकरिता आवश्यक वित्तीय तरतूद प्रधान मुख्य वनसंरक्षक (अर्थसंकल्प, नियोजन व विकास), महाराष्ट्र राज्य, नागपूर यांनी करावी.

6. The learned Senior Advocate then refers to a communication by the Additional Principal Chief Conservator of Forest (Protection), State of Maharashtra State, Nagpur, more specifically, Clauses 3, 4, 5 and 6, which read as under :-

“3.00 चंदनाचे पिक हे उच्च मुल्य देणारे असल्याने शेतक-यांनी त्यांची लागवड केलेली आहे, व लागवडीकडे वळत आहेत. याबाबत आढावा घेतला असता राज्यामध्ये सुमारे 839 हेक्टर क्षेत्रात चंदन वृक्ष लागवड करण्यात आलेली आहे. भारत सरकारचे पर्यावरण व वन मंत्रालयाच्या दिनांक 18/11/2014 च्या मार्गदर्शक सुचना अन्वये खाजगी क्षेत्रावरील वृक्षतोड न वाहतुक परवान्यात शिथिलता आणणे करिता मार्गदर्शक सुचना दिलेल्या आहेत. त्याचप्रमाणे राष्ट्रीय कृषी वानिकी धोरण 2014 अन्वये ज्या वृक्ष प्रजाती वनक्षेत्रात आढळून येत नाही अशा वृक्ष प्रजातीची वृक्ष लागवड, त्याची तोड व वाहतुक सुलभ करणे संदर्भात मार्गदर्शक सुचना दिलेल्या आहेत. महाराष्ट्र राज्यात महात्मा गांधी राष्ट्रीय

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ग्रामीण रोजगार हमी योजनेतर्गत खाजगी जमीनीवर वृक्ष लागवडीची योजना राबविण्यात येत आहे. यामध्ये चंदनवृक्ष लागवडीचा सुध्दा समावेश आहे.

4.00 चंदन वृक्षाची तोड, वाहतुक, व विल्हेवाट याचे सध्याचे नियमांचे संबंधाने काय समस्या आहेत हे माहिती करून घेणेकरिता दिनांक 19/8/2020 रोजी शेतकरी, उद्योजक व क्षेत्रीय अधिकारी यांचे वेबिनार आयोजित करण्यात आलेले होते, त्यामध्ये शेतक-यांनी प्रामुख्याने वृक्षलागवडीस प्रोत्साहन मिळण्यासाठी नियमात शिथीलता आणण्याकरिता सुपविले.

5.00 शासन निर्णय दिनांक 23/10/2019 अन्वये वनविषयक कायद्यामध्ये सुधारणा सुचविण्यासाठी प्रधान मुख्य वनसंरक्षक (वन बल प्रमुख) यांचे अध्यक्षतेखाली समीती गठीत करण्यात आली आहे. दिनांक 27/8/2020 रोजी सदर समीतीची बैठक आयोजित करण्यात आली. या बैठकीमध्ये वरील मुद्दा (1) मध्ये नमूद केलेल्या कायदेशीर तरतुदी संबंधी सविस्तर चर्चा करण्यात आली. त्यामध्ये समीतीने महाराष्ट्र झाडे तोडण्याबाबत (विनियमन) अधिनियम, १९६४ च्या सूची मधून अ.क्र. ८ वरील चंदन वगळण्याकरिता सुचविले.

6.00 चंदन या प्रजातीचा संवर्धन करण्यासाठी खाजगी क्षेत्रावर व्यापकरित्या लागवड करण्यास प्रोत्साहन देणे आवश्यक आहेत. हा उद्देश साध्य करण्याकरिता महाराष्ट्र झाडे तोडण्याबाबत (विनियमन) 1964 च्या अधिनियमासोबत जोडलेल्या अनुसूची मधील चंदन वृक्ष वगळण्याकरिता अधिसूचनेचे मराठी व इंग्रजी प्रारूप शासन मान्यतेसाठी सादर करण्यात येत आहे.”

7. He then draws our attention to the Notification dated 23/03/2021, by which, the entry “Santalum (चंदन)” has been deleted as Entry No.8 in the Schedule under the Maharashtra Act of 1964, which crystallizes the position that, no application for seeking permission for chopping down/felling a Sandal wood tree could be filed or entertained under the Maharashtra Act of 1964.

8. The learned Senior Advocate then points out the decision, placed on record at Page Nos.398, 399 and 400 of the Petition paper-book. The important conditions as approved by majority by the 9 members Committee, are as under :-

“Decision of SLC-

As the projects are on restrictive lands, negligible or nil presence of Sandalwood trees in the nearby forest areas, considering the efforts undertaken by the applicants, employment generation potential and need to promote Social Forestry species, the SLC by majority decision approved the two proposals of Sandalwood cutting and processing with following terms and conditions-

a- The permission is granted only for silviculturally mature Sandalwood trees available on farm lands of applicants. No outside Sandalwood timber is permitted. The applicant shall give an undertaking regarding this to CF (T) Nashik who shall ensure that condition is not violated in any

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manner whatsoever. The CF(T) Nashik shall maintain record of felling as well as processing operations and submit periodic compliance to SL.C.

b- The applicants shall ensure that additional permits/licenses from other Government Department are complied with before starting of operations.

c- The applicants will be liable to be prosecuted as per law in case of any deviation or violation of terms and conditions.

d- The CF(T) Nashik may enforce any other condition or mechanism he deems fit in interest of forest conservation while giving license. He shall ensure that license is granted in accordance with provisions of Maharashtra Forest Rules 2014”

9. He then points out that one of the members of the Committee, Shri. Tashildar, (who has addressed the learned D.S.G.I. vide communication dated 13/11/2023), had refused to sign the minutes of the discussion and the decision to grant licence to the present Petitioners. Out of the 9 members of the Committee, one was absent. Shri. Tashildar has refused to sign and 7 members have approved the minutes and terms of the licence granted to the Petitioners.

10. Needless to state, we have perused the guidelines issued by the Hon’ble Supreme Court in **T. N. Godavarman**

Thirumulpad Vs. Union of India in Writ Petition (Civ.)

No.202/1995 vide the order dated 04/03/1997, directing the closure of all unlicensed Saw Mills, Veneer and Ply Wood Industries and also prohibited granting licences. There is no dispute that the Petitioners are not un-licensed factories. The Petitioners, pursuant to the said directions, have been granted licence with strict conditions after the Maharashtra Act, 1964 was amended, deleting Entry No.8 (Sandal wood). The ad interim order passed by us does not in any way grant any liberty to the Petitioners to ignore the terms and conditions of the licence.

11. In view of the above, the ad interim conditional relief granted to the Petitioners is in tune with the terms and conditions of the licence, by which, the Petitioners were directed to file an affidavit undertaking in this Court, as well as to be delivered to the Authorities stating that, 'the Petitioners would use the Sandal wood procured only from sandal trees grown within their farms'. Such relief does not preclude the Competent Authorities from inspecting the Unit and the activities of the Petitioners and carry out random survey/check/surveillance to ensure that the terms of the licence are not violated and the Petitioners do not resile from their statement.

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12. With the above observations, **both the Civil Applications are disposed off.**

13. Needless to state, after filing of the affidavit in reply, if the Respondents desire modification of any order passed by this Court, they are liberty to do so.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

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