

AD-02
Ct No.09
29.02.2024
TN

WPA No. 8544 of 2023

Calcutta Veneer Industries Pvt. Ltd.
Vs.
The State of West Bengal and others

Mr. Biswaroop Bhattacharyya,
Mr. Subhasis Chakraborty,
Mr. Sunny Nandy,
Ms. Sushmita Kumari Singh,
Mr. A. Chowdhury

.... for the petitioner

Mr. Sirsanya Bandopadhyay

.... for the State

1. The Calcutta Veneer Industries Pvt. Ltd. is the writ petitioner. The said company owned a licence to operate a saw mill.
2. However, for certain reasons, the said licence was cancelled on December 27, 2016.
3. It is contended by the petitioner that the petitioner first learnt of such cancellation only by a communication dated January 13, 2022 when the petitioner sought to shift its saw mill to Jalpaiguri District.
4. In the said communication dated January 13, 2022, the Authorized Officer, Nadia & Murshidabad District and Divisional Forest Officer (DFO) *inter alia* cited the cancellation of the licence on December 27, 2016.
5. Subsequently, the petitioner had applied for renewal of its licence which was also turned down by a communication dated September 29, 2022. In both the communications, however, it was indicated that a

secondary saw mill licence can be granted to the sole proprietorship of the Director of the Calcutta Veneer Industries Pvt. Ltd.

6. It is contended that the Chief Conservator of Forests, who is the appellate authority under the concerned statute, was a party to the meeting which culminated in the communication to the petitioner and the relevant decisions. Moreover, it is argued that no prior notice was given to the petitioner before cancellation of its licence, which is palpably violative of the principles of natural justice. Hence, the present writ petition substantially assails the cancellation of the licence of the writ petitioner-company on December 27, 2016.
7. Learned counsel for the petitioner also points out that although there is a provision of appeal under Rule 8(2) of the West Bengal Forest (Establishment and Regulation of Saw-Mills and other Wood-Based Industries) Rules, 1982 (for short “the 1982 Rules”), the petitioner’s right to prefer an appeal has matured only recently on September 29, 2022 with the second communication. The writ petition has been filed in March, 2023.
8. Learned counsel for the respondent-authorities opposes the prayer of the petitioner and points out to the provision of appeal which stipulates that the said appeal has to be preferred within thirty days from the date of communication of the order appealed against.

It is further pointed out that in view of the prior cancellation of the licence in 2016, there is no scope of further renewal of the same.

- 9.** A perusal of the communication dated September 29, 2022 which is annexed to the writ petition and the communication dated January 13, 2022, a copy of which is handed over in court today by way of a supplementary affidavit by learned counsel for the petitioner, shows that in both the said communications it was categorically mentioned that the licence of the petitioner had been cancelled as long back as on December 27, 2016.
- 10.** The supplementary affidavit filed today be kept on record.
- 11.** Even accepting the contention of the petitioner that the petitioner might have been initially unaware of the said cancellation, at least on January 13, 2022, the petitioner clearly came to know of such decision, since the DFO, in his communication of even date, had clearly referred to the particulars of the date of cancellation and the office order pertaining to the same. In fact, it transpires from the said communication that as Annexure-II, a copy of the said cancellation order was also served on the petitioner.
- 12.** Hence, nothing prevented the petitioner from challenging the same by way of an appeal by treating January 13, 2022 to be the date when the order was

first communicated to the petitioner. However, the petitioner chose to remain silent on such count and even after September 29, 2022, Kasto Udyog (a sole proprietorship of the Director of the petitioner-company) was approved to have a secondary licence, the petitioner kept silent regarding the cancellation order of the petitioner.

- 13.** Thus, the petitioner apparently waived its right of appeal and acquiesced to the cancellation of the licence, probably on the premise that a secondary licence was given to the Kasto Udyog, the said sole proprietorship of the Director of the petitioner-company.
- 14.** The first challenge to the cancellation was taken out by way of the present writ petition only in March, 2023, that is, after more than a year from the date of the petitioner first learning of the cancellation order on January 13, 2022.
- 15.** The appellate provision clearly stipulates in Rule 8(2) of the 1982 Rules that an appeal under the Rule “shall be” preferred within thirty days from the date of communication of the order.
- 16.** However, in the proviso, it is stipulated that the appellate authority may admit any appeal preferred after the expiry of the period as aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

- 17.** Thus, after so long a time, the petitioner cannot be permitted to reopen the cancellation of the licence, at least by way of the writ petition.
- 18.** Even the appeal is now time-barred. However, it is always available to the petitioner to take advantage of the proviso to Rule 8(2) of the 1982 Rules.
- 19.** It is made clear that although the writ court is not inclined to interfere with the said cancellation, nothing in this order shall prejudice the petitioner in the event the petitioner decides to prefer an appeal by taking advantage of the proviso to Rule 8(2) of the 1982 Rules.
- 20.** The merits of the cancellation have not been gone into and it will be open to the petitioner to take all points before the appellate forum which will consider the matter independently taking in view the delay occasioned by the petitioner as well as the proviso to Rule 8(2) of the 1982 Rules.
- 21.** WPA No. 8544 of 2023 is, accordingly, disposed of in the light of the above observations.
- 22.** There will be no order as to costs.
- 23.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)