

September 25, 2024
Sl. No.A 84
Court No.9
s.biswas

WPA 20551 of 2024

Ashutosh Bhattacharya
vs.
The State of West Bengal and others

Mr. Dhananjay Nayak

... for the petitioner

Mr. Sk. Md. Galib

Ms. Suvasree Ghose

... for the State

1. The writ petition has been filed challenging the order dated February 5, 2024 issued by the Conservator of Forests Administration, Publicity & Marketing. The petitioner was informed that the licence No.FD/NM/003/N was cancelled by the DFO, Nadia Murshidabad vide O.O.No.55/Saw Mill/GEN dt.14/03/2022. A copy of the said order was forwarded to the petitioner.
2. The petitioner submits that the order was passed under Rule 5(4) of the West Bengal Forest (Establishment and Regulation of Saw Mills and other Wood Based Industries) Rule, 1982.
3. According to the petitioner, invocation of Rule 5(4) was irregular as the petitioner had applied for renewal of licence in December 2015 and the authority could not have held that, as there was no application in proper form upto six months

from the expiry of the renewal, the licence would automatically be treated as cancelled.

4. Mr. Galib, learned advocate for the State respondents submits that Rule 5(1) enjoined the duty upon the petitioner to file an application in Form III along with the declaration in Form VII once in a year with the specified fees as per Sub-rule (1) of Rule 6 before the expiry of the previous licence. A fine of Rs.10/- was to be paid if the application for renewal reached the authorized officer after expiry of the licence, but within three months from date of such expiry beyond which, such unit would be treated as unauthorized. Upto six months, the power to renew the licence or refuse to renew would vest upon the Conservator of Forests subject to payment of Rs.1000/- lumpsum and further subject to the condition as laid down in Paragraph II (ii, iii and iv) of Sub-Rule (3) of Rule 5. After expiry of six months, the unit would be treated as unauthorized and would be liable to closure upon cancellation of licence.
5. Under the provision of the said rule, the factory of the petitioner would be deemed to be unauthorized and the licence would stand automatically cancelled, thereby making the factory liable for closure.

6. Although the Divisional Forest Officer had passed the order invoking Rule 5(4), records reveal that the petitioner claimed to have filed an application in Form III sometime in December 2015. The veracity of such statement has to be checked from the records. A receipt showing payment of Rs.1000/- is also annexed.
7. It also appears that the original licence was in the name of M/s. J. B. Timber Concern and the petitioner thereafter asked for licence in his name. Whether such application by the petitioner in his individual name was permissible in law, is the second matter of concern.
8. Thirdly, the authorities had time and again corresponded with the petitioner, informing him that the matter of renewal was awaiting a legal opinion. Such correspondence does not disclose that the petitioner's case would be covered by Rule 5(4).
9. As these disputed facts have arisen and further confusion has been created by the correspondence of the authority, this court deems it fit to relegate the matter back to the Divisional Forest Officer for a fresh decision in the matter, upon granting an opportunity to the petitioner to file a written submission with all his documents to show that the provision of Rule 5(1)(2) had

been complied with. The decision shall be taken within a period of one month from the date of communication of this order.

10. Accordingly, the writ petition is disposed of.

11. There shall be no order as to costs.

12. All parties are directed to act on the basis of server copy of the order.

(Shampa Sarkar, J.)