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

904 WRIT PETITION NO. 1401 OF 2024

Umiya Saw Mill,
Through its Director
Shri. Tokarsi Ratansi Patel,
Age: 67 years, Occ: Business,
R/o. Valabhbhai Patel Road,
Near Ulhas Takies Pachora,
Tq. Pachora, Dist. Jalgaon

....PETITIONER

VERSUS

1) State of Maharashtra,
Through its Secretary,
Forest Department,
Mantralaya, Mumbai-32

2) The Conservator of Forest,
Jalgaon Forest Dept.,
Jalgaon

3) The Forest Range Officer (Regional),
Pachora, Tq. Pachora,
Dist. Jalgaon

....RESPONDENTS

....

Mr Sanket N. Suryawanshi, Advocate for Petitioner;
Mr S. B. Narwade, A.G.P. for Respondents/State

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

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DATE : 7th February, 2024**ORAL JUDGMENT (PER : Ravindra V. Ghuge, J.)**

1. Leave to correct the description of Respondent No.2.

Correction be carried out forthwith.

2. Rule. Rule made returnable forthwith and heard finally by the consent of the learned Advocates for the respective sides.

3. A short issue is before us for adjudication, in the light of prayer clauses (B) and (C) put forth by the Petitioner/Saw Mill, as under :-

“B) By appropriate writ order or direction set aside the impugned communication dated 01.01.2024 issued by the Respondent No. 2 and for that purpose issue necessary orders.

C) Pending the hearing and final disposal of the present writ petition of this writ petition, grant stay to the effect, operation and implementation to the impugned communication dtd. 01.01.2024 at EXHIBIT-B and permit

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the petitioner Saw mill to operate and for that purpose issue necessary orders.”

4. The Petitioner is operating the Saw Mill from 1969. He has received the licence to operate the Mill by complying with all the requisite conditions and his licence has been renewed from time to time. It is undisputed that, since 1969, till today, there is no offence registered against the Saw Mill and there is no complaint against the same. The renewal of the licence has been routinely done by the concerned Authority. In this backdrop, the impugned order dated 01/01/2024, passed by Respondent No.2/Deputy Conservator of Forest, Jalgaon Forest Department, Jalagon, has shown a reason for not renewing the licence of the Saw Mill, that the Petitioner has some dispute before the Civil Court with the original landlord.

5. We have perused the judgment dated 28/02/2008, delivered by this Court in Writ Petition No.6158/2007 (**Shri Karsandas Gangaram Patel Vs. State of Maharashtra and others**). In this matter, the Petitioner had approached the Chief Conservator of Forest by filing an appeal against the non-renewal

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of the licence by the Competent Authority, which refused renewal purely for the reason that, there was some dispute between the Saw Mill and the landlord. As the Chief Conservator of Forest did not pass any order for two months, the Petitioner approached this Court, preferring Writ Petition No.2547/2006, which was disposed off, with a direction to the concerned Authority to decide the same. Subsequently, the Appeal was disposed off. Again, the said Petitioner had to approach this Court by filing a Writ Petition.

6. In a lengthy judgment delivered by this Court in **Shri Karsandas Gangaram Patel** (supra), it was concluded in paragraph Nos.14 to 16, as under :-

“14. It is not in dispute that in the present case Petitioner is running the saw mill from the year 1962 without having any complaint against him regarding breach of any of the conditions of the licence or commission of any act against the conservation of the forest or violation of the activities to be carried out in operating the saw mill. The facts of the present case clearly demonstrate that due to a reason best known to the owner, two years after he purchased the property or acquired the title to it by any other mode, an objection has been raised.

15. As the saw mill is being operated for more than 45 years without there being any complaint, in our considered

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opinion, in the facts and circumstances of the present case, objections raised by the landlord of the petitioner appear to be motivated. In the facts of the present case, it cannot be said that insistence on the production of no objection certificate after renewal of the licence for last 45 years, was in the interest of the administration. We have already pointed out that none of the provisions of the Act or the Rules framed thereunder make it obligatory for the applicant/ Petitioner to submit no objection certificate for obtaining or renewing the licence. Sub Rule (3) of Rule 88 merely speaks about the enquiry to be conducted by the competent authority for satisfying himself on the question whether or not there would be any objection to granting the sanction or licence applied for safeguarding the timber in the reserved or the protected forest. Insistence on production of no objection certificate cannot even remotely, be said to have any relevance to the safeguarding of the timber in any reserved or protected forest. Therefore, in our considered opinion production of no objection certificate of the landlord cannot be one of the pre-requisite for granting licence and in appropriate cases, this condition can be dispensed with. The present case appears to be one of the cases where exception can be made. We do not intend to lay down law of universal application, however, considering the facts of the present case and the provisions of the Statute and the Rules, we are of the considered opinion that in the present case it is not necessary to insist on production of no objection certificate from the landlord for renewal of the licence and this condition can be waived as there is no other complaint against the Petitioner who is conducting the saw mill for last 45 years. As the condition for production of objection certificate of the landlord is not essential for achieving any object of the Act or Rules, in appropriate cases the condition can be relaxed. Perusal of the

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orders passed by Respondent. No.2 and 3, which are impugned in the present Petition shows that Respondent Nos. 2 and 3 have passed the orders without any reference to the purpose for which there can be insistence on production of no objection certificate of the landlord. The Authorities must always ensure that the acts done by them and the decisions taken, must be in furtherance of the provisions of the Statute. Rejection of the application for renewal of licence without due consideration of the facts of the case can not be approved.

16. Considering the facts and circumstances of the present case and the fact that production of no objection certificate of the landlord is not a mandatory condition which can be inferred from any of the provisions of the Act or the Rules, impugned orders can not be sustained. Impugned order dated 3/6/2006 passed by Respondent No.3 and order dated 21/5/2007 passed by Respondent No.2 are thus quashed and set aside. The Respondents shall follow the requisite procedure for renewal of the licence of the Petitioner in accordance with the provisions of law and decide the application of the Petitioner within a period of six weeks from today without further insistence on submitting no objection certificate from the landlord. The Petition is, therefore, partly allowed. Rule is made absolute in the aforesaid terms.”

7. The learned A.G.P. is right in pointing out that this Court held that, it was not laying down a law for universal application and the order was passed in the peculiar facts and circumstances of the case. However, this Court has unequivocally

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concluded that, while considering the request for renewal of a licence by the Saw Mill operator, the 'no objection' of the landlord or pendency of any complaint by the landlord, is not to be taken into account, more so, when the Saw Mill was operating for 45 years and there were no complaints against the said Saw Mill.

8. We are in agreement with the view taken in **Shri Karsandas Gangaram Patel** (supra), and we have noted that the Court desired to keep its conclusions restricted to the peculiar facts of the case. It was, however, not recorded in the order that the said conclusions would not be cited in any matter involving identical circumstances. In **Shri Karsandas Gangaram Patel** (supra), the Saw Mill was operating for 45 years without any complaint. In the case in our hands, the Petitioner is operating the Saw Mill for 54 years from 1969, without any complaint and without any offence registered against it. Had any such offence been registered, the Competent Authority would have made a reference to the same in the impugned order, and that would have

been the basis or the foundation for refusing to grant renewal of licence.

9. In **Shri Karsandas Gangaram Patel** (supra), this Court has concluded that, the 'no objection' of the landlord or an objection with regard to the privity of contract between the landlord and the Saw Mill operator, would not be the foundation for refusing the renewal of licence. We are of the view that, if in future, the landlord succeeds in evicting the Petitioner and the order of eviction attains finality, thereby leaving the Petitioner under an obligation to surrender the possession of the land, the Competent Authority, in charge of granting renewal of licence, would independently initiate appropriate steps after noticing that the Saw Mill operator has been evicted. Until then, as is the contention before us of the Forest Department that the Petitioner is likely to be evicted in time, this would be a fallacious ground to be taken into account for refusing renewal of licence to the Saw Mill, which is operating under strict prescribed conditions imposed on it, for the last 54 years.

10. The learned A.G.P. has pointed out that the Petitioner has a statutory remedy available of preferring an Appeal with the Chief Conservator of Forest. In normal circumstances, he would be appropriate in making such a submission. However, taking into account the law laid down in **Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer cum Assessing Authority, 2023 SCC Online SC 95**, we find that, it would be rendering the Petitioner to further rigours of litigation in the backdrop of a judicial pronouncement settling the issue with regard to the same reason cited in the impugned order before us.

11. In view of the above and in the particular facts and circumstances of this case, keeping in view the law laid down in **Shri Karsandas Gangaram Patel (supra)**, **this Writ Petition is allowed**. The impugned order is quashed and set aside.

12. We direct the Deputy Conservator of Forest, Jalgaon Forest Division, Jalgaon, to issue the renewed licence to the Petitioner/Saw Mill, from the date the tenure of the earlier renewed licence expired. Needless to state, if the landlord

succeeds in evicting the Petitioner from the present location, and if the said order attains finality, we permit Respondent No.2 to initiate appropriate steps as would be permissible in law. So also, the competent authority would be at liberty to initiate action against the Petitioner if it finds any violation of law or the conditions of the license.

13. Rule is made absolute in above terms. No order as to costs.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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