

20.02.2025
DL.19, 20
& 158
Court No.1
AP/S. Gayen

WPA(P) 493 of 2024
Rabkul Islam Mondal
Versus
State of West Bengal & Ors.
with
WPA 882 of 2012
IA No. CAN 1 of 2013
(Old No. CAN 3791 of 2013)
Arup Basu
Versus
State of West Bengal & Ors.
with
WPA(P) 469 of 2023
(IA No. CAN 2 of 2023)
(IA No. CAN 7 of 2024)
Arup Basu
Versus
State of West Bengal & Ors.

Mr. Bratim Kumar Dey
Mr. Joydeep Das
...for the Petitioner in WPA(P)
493 of 2024

Ms. Mousumi Bhowal
Mr. Aman Gupta
Mr. Ishan Bhattacharya
...for the Petitioner in WPA 882
of 2012 and WPA(P) 469 of 2023

Mr. Siddhartha Lahiri
Ms. Amrita Pandey
...for the Respondents in WPA(P)
493 of 2024

Ms. Sonal Sinha
Ms. Shabnam Farooqui
...for the State Pollution Control
Board in WPA(P) 493 of 2024

Mr. Samrat Sen, Sr. Adv.
Mr. Nilotpal Chatterjee
...for the State in WPA(P) 493 of
2024

Mr. T.M. Siddiqui, ld. AGP
Mr. Nilotpal Chatterjee
Ms. Noile Banerjee
...for the State in WPA(P) 493 of
2024 and WPA 822 of 2012

In Re: CAN 1 of 2013 (Old No. CAN 3791 of 2013) in WPA 882 of 2012

1. The said writ petition was disposed of by the order dated 6th March, 2013. This application has been filed by one Arup Basu seeking for modification of the order passed in the writ petition by directing the concerned authorities including CESC and the State Committee of West Bengal to consider and dispose of the application filed by the members of the applicants whose names have been approved by the State Committee and appearing in senior list, i.e., 19871 units prepared by the State Committee which is pending for twenty years. The prayer sought for in this application is an independent cause of action and the question of modifying the order passed on 6th March, 2013 could not arise.
2. Accordingly, CAN 1 of 2013 (Old No. 3791 of 2013) is dismissed.
3. However, it is left open for the petitioner in the said application to independently proceed the legal remedies available before the appropriate forum.

In Re: WPA (P) 493 of 2024 and WPA(P) 469 of 2023

4. Since both the writ petitions relate to the same issue they were heard together and are disposed of by this common order.

5. In WPA(P) 469 of 2023, the petitioner seeks for direction to stop establishment of unlicensed saw mills and wood-based industries in West Bengal; close the existing unlicensed sawmills and wood-based industries in West Bengal; seize and remove sawing machineries of those unlicensed sawmills and wood-based industries; initiate confiscation proceedings; impose penalties upon the owner of those unlicensed users; dismantle the structure disconnect the electricity supply and to direct the WBSEDCL and/or CESC not to provide electricity connection to sawmills and other wood-based industries unless the license issued by the Forest Department has been produced; to cancel the licenses of secondary units that were carrying out sawing of round log; to constitute a team of Forest Guards and/or Forest Officials for continuous vigil and surveillance ensuring closure of the unlicensed saw mills, secondary units and other wood-based industries and non-establishment of new unlicensed saw mills and secondary units and other wood-based industries. The petitioner also prays for issuance of a direction upon the respondents authorities to implement Wood-based Industries (Establishment and Regularization) Guidelines, 2016 forthwith in the State of West Bengal.

6. In WPA(P) 493 of 2024, a prayer sought for is more or less similar, wherein the petitioner seeks for action being initiated against the unlicensed saw mills.
7. In WPA(P) 369 of 2023, the interim direction was issued on 18th September, 2023, the operative portion reads as follows:-

“1. By this public interest litigation the petitioner has flagged a very important and the sensitive issue with regard to the operation of the unlicensed saw mills and wood-based industries in the State of West Bengal.

2. The petitioner had approached this court earlier by filing a writ petition in WP 882(W) of 2012 for appropriate directions to close the existing unlicensed saw mills and wood-based industries and also to seize sawing machineries of those unlicensed saw mills and wood-based industries and for other ancillary reliefs.

3. After perusal of the affidavit-in-opposition filed by the State Government, the Hon’ble Division Bench in WP 882(W) of 2012 found that certain saw mills are running in illegal manner and direction was issued to the State Government and concerned authorities to take action to disconnect the electricity and the West Bengal State Electricity Distribution Company Limited was directed to help the State Government for closing down the unauthorized saw mill by disconnecting the electricity connection. Further, direction was issued that the trade licenses issued to such illegal saw mills should be cancelled forthwith and no business activity shall be undertaken by the unlicensed saw mills. Accordingly, a direction was issued to the effect that all the saw mills which are running in illegal manner be closed down within a period of two months from the date of the order, namely, 06.03.2013. It appears that pursuant to the directions issued, the State Government took action and 164 saw mills/wood based

industries were closed down who were admittedly carrying illegal operations.

4. The petitioner has come forward with this present writ petition pointing out that several of those saw mills which were closed down pursuant to the order dated 06.03.2013 have re-started their illegal operation apart from that there are other illegal saw mills which are functioning and in this regard list of unlicensed saw mills in various districts have been annexed to the writ petition. If the saw mills which were unlicensed saw mills which were closed pursuant to the direction issued in the order dated 06.03.2013 have re-commenced their operations, it would tantamount to clear violation of the earlier order and action has to be initiated not only against the unlicensed saw mills but also the concerned authorities who have been turned a blind eye to such an illegality.

5. With regard to the allegation that there are several other unlicensed saw mills operating in various districts, this court would direct a report to be filed by the concerned authority so that the court can examine as to how best the menace can be prevented.

6. In the light of the above, there will be a direction to the respondent authorities to forthwith take action to close down all unlicensed saw mills, some of which has been pointed out by the petitioner in the annexures filed to the writ petition. The authorities concerned are directed to maintain strict vigil in all the districts where the saw mills are operating and also conduct periodic surprise inspections even with regard to the secondary units of the licensed saw mills.

7. The petitioner in paragraph 15 of the writ petition has suggested certain actions that can be taken by the concerned respondents such as seizure of the machinery of the unlicensed saw mills and secondary units and other wood-based industries, confiscation of the seized machinery under the provisions of Section 52 of the Indian Forest Act, 1927 read with Section 59A of the Indian Forest Act (West Bengal amendment), 1988, permanently dismantling the structures of the unlicensed

unit, disconnection of the electricity supply, initiation of the proceedings under the Indian Forest Act, 1927 and West Bengal Forest (Establishment and Regulation of Saw Mills and Other Wood-Based Industries) Rules, 1982 for imposition of penalties upon the owners of the unlicensed saw mills and strict vigil and surveillance ensuring closure of the unlicensed saw mills, secondary units and other wood-based industries and nonestablishment of new unlicensed saw mills, secondary units and other wood-based industries.

8. We, prima facie, find that the suggestion made by the petitioner can very well be accepted by the authorities as it would produce the desired result if those suggestions are taken seriously. As observed earlier strict vigil and surveillance are required which have to be done by the concerned authorities of the respondent. We would direct the concerned authority of the respondent to file a comprehensive affidavit setting out all the details and in the meantime, proceed to take action for closing down the unlicensed saw mills, secondary units and other wood-based industries without waiting for any orders in this writ petition as it is the duty of the respondent authorities to ensure that such illegal activities are not being conducted.

9. We direct the Secretary, Forest Department, State of West Bengal to form a team of 5 officers under the Chairmanship of the Principal Chief Conservator of Forest and formulate a standard operating procedure as to how best the illegality should be prevented.”

8. In WPA(P) 493 of 2024, a direction was issued to tag the writ petition along with another matter namely, WPA 882 of 2012. However, the said writ petition had already been disposed of.
9. In terms of the earlier direction, action taken report in the form of affidavit has been filed. The

Deputy Secretary, Department of Forest, Government of West Bengal, as could be seen from the different forest divisions of the State of West Bengal and the data was compiled by the DCF, Legal, West Bengal Conservator of Forests, APM, West Bengal and in the said compilation, it has been mentioned that closure notices were issued to 360 illegal saw mills. Raid was conducted on 257 saw mills, 212 saw mills were closed after being found to be illegal and prosecution offence report was drawn against two of such illegal saw mills. The Committee formed pursuant to the direction of this Court has undertaken to formulate standard operating procedure for prevention of illegality in saw mills and wood-based industries across the State of West Bengal and copy of the Standard Operating Procedure has been annexed to the report in Annexure R4.

10. Further, it is mentioned that pursuant to the guidelines which have been issued by the Ministry of Environment Forest, Government of India, the State of West Bengal has issued a Notification dated 2nd December, 2016, formed a State Level Committee, whereby the Principal, Chief Conservator of Forests, West Bengal was appointed as Chairperson and the State Level Committee sits on regular basis along with representatives of Registered Saw Mills and Wood-

based Industries Owners' Association and authorized officers in order to process the different issues relating to saw mills and other wood-based industries in the State. The duties and responsibilities of the authorized officers as per relevant rules are also being set out. No doubt it is true that the State Level Committee has been put in place and it is mentioned that the State Level Committee sits on regular basis. Nonetheless, there are rampant illegal and unlicensed saw mills operating in the State of West Bengal.

11. It has come to light after the direction issued by the Court and after forming a Special Committee. The Forest Department should exercise vigilance in the matter, since even as per the report, 360 illegal saw mills were functioning and raid was being conducted on 257 saw mills and 212 saw mills were closed after being found to be illegal. It is not clear as to what the State Level Committee was doing in the matter and why action was not initiated against the illegal saw mills earlier. It is only after the direction issued by this Court, a Special Committee has been formed.

12. We direct that the Five Members Committee, which has been formed by a Notification dated 17th October, 2014, shall independently function along with the State Level Committee and the Standard

Operating Procedure which has been framed should be strictly implemented and it is a continuing process and not a one day affair.

13. In this regard, The Principal Chief Conservator of Forests is directed to issue appropriate instructions to his field formation so that the operation of illegal saw mills and wood-based industries is permanently prevented and done away within the State of West Bengal.

14. With the above observations and directions, both the writ petitions stand disposed of and the connected applications, if any, are also disposed of.

15. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all requisite formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)