

(2014) 07 MAD CK 0183

In the Madras High Court

Case No : W.P. (MD) No. 8255 of 2014, W.P. (MD) Nos. 8256, 8253 and 8228 of 2014 and M.P. (MD) Nos. 1 to 4, 1 to 4, 1 to 3 and 1 to 3 of 2014

Alagulakshmi Industries

APPELLANT

Vs

The Member Secretary

RESPONDENT

Date of Decision : 23-07-2014

Acts Referred:

Citation : (2014) 07 MAD CK 0183

Hon'ble Judges : K.K. Sasidharan, J

Bench : Single Bench

Judgement

K.K. Sasidharan, J.—These Writ Petitions are directed against the order dated 09.04.2014, whereby and whereunder, the fourth respondent called upon the petitioners to stop the manufacturing process of match splints till licenses are issued by the competent authority.

BRIEF FACTS:

2. The petitioners have come up with a contention that they have established the respective Industries prior to 30.10.2002 and as such, they are entitled to undertake the activities relating to manufacture and sale of match splints and allied items. According to the petitioners, the applications for licence are all pending before the third respondent. The third respondent, vide its communication dated 12 April, 2014, called upon the concerned applicants to appear before the office of the Conservator of Forest with necessary documents for the purpose of granting licence. It is the grievance of the petitioners that they are all existing manufacturers, who have established the Industries prior to 30.10.2002 and as such, they are entitled to licence. The applications are pending before the third respondent. The fourth respondent, even during the currency of those applications, passed the impugned orders, directing them to discontinue the manufacturing activities. The petitioners are, therefore, before this Court.

SUBMISSIONS:

3. The learned counsel for the petitioners contended that the petitioners are having documents to show that they have commenced manufacturing activities before the cut-off date and as such, they are entitled to licences. According to the learned counsel, it is not open to the statutory authority to keep the applications for licence pending and at the same time, to proceed against the Industries for closure.

4. The learned Government Advocate supported the impugned orders passed by the fourth respondent.

ANALYSIS:

5. The Supreme Court in its judgment dated 29.10.2002 in T.N.Godavarman Thirumalpad vs. Union of India and others in I.A.No.566 in W.P.(C)No.202 of 1995, restrained the State Government and Union Territory from permitting unlicensed saw-mills, veneer, or plywood industry from operating. The Industries, who have commenced their operation prior to 30.10.2002, are entitled to licence.

6. The Government of Tamil Nadu, in exercise of its powers conferred by Section 26 r/w Sections 35 and 63 of the Tamil Nadu Forest Act, 1882, framed rules in the name and style of "Tamil Nadu Regulation of Wood Based Industries Rules, 2010". Rule 2(h) of the Rules defines wood based industries, which includes veneer industries, plywood industries, saw-mills, particle board units, medium density fibre units, block board units, paper pulp and rayon units and includes any other unit involved in cutting, re- sawing or converting timber. Section 3 contains restriction on establishment of Wood Based Industries. Section 4 provides for application for grant of licence and Section 5 provides for renewal of licence.

7. The petitioners have submitted individual applications before the second respondent and the same were forwarded to the third respondent. The third respondent, in his counter-affidavit, very clearly stated that the applications submitted by the petitioners for licence are under active consideration and it was delayed only on account of the Parliamentary elections. Therefore, it is clear that the applications are pending before the statutory authority. The documents available on record are not clear as to whether these petitioners have all commenced their operations prior to 30.10.2002. There are indications in some of the documents that certain licences were given before the cut-off date to them. In any case, it is for the statutory authority to consider all these aspects, while processing the applications.

8. The only question now remains is as to whether the fourth respondent was correct in passing the impugned orders directing the petitioners to discontinue the manufacturing of wood and match splints.

9. The third respondent, having received the applications, ought to have processed the same in accordance with the provisions of the Tamil Nadu

Regulation of Wood Based Industries Rules, 2010. The fourth respondent, without waiting for the outcome of the applications submitted by the petitioners, passed the impugned order dated 09.04.2014. There is no question of quashing the impugned orders, in view of the fact that, as on today, the petitioners are not having licences. The question of executing the impugned orders, would depend upon the ultimate orders to be passed by the third respondent, pursuant to the applications submitted by the petitioners for licence.

DISPOSITION:

10. In the result, a Writ in the nature of Mandamus is issued, directing the third respondent to consider and dispose of the applications submitted by the petitioners for licence on merits and in accordance with the provisions of the Tamil Nadu Regulation of Wood Based Industries Rules, 2010, as expeditiously as possible and in any case, within a period of three months from the date of receipt of a copy of this order. The impugned orders dated 09.04.2014 shall be kept in abeyance till the disposal of the applications by the statutory authority.

11. The Writ Petitions are allowed to the extent indicated above. Consequently, the connected miscellaneous petitions are closed. No costs.