

(2014) 11 KAR CK 0200

In the Karnataka High Court

Case No : Writ Petition No. 35090/2014 (GM-FOR)

K.R. Gopikrishna

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 07-11-2014

Acts Referred:

Constitution of India, 1950 — Article 19(1)(g)

Citation : (2014) 11 KAR CK 0200

Hon'ble Judges : A.N. Venugopal Gowda, J

Bench : Single Bench

Advocate : V. Lakshminarayana, Senior Advocate for Vikram Balaji B.L., Advocate for the Appellant; S. Lakshminarayana, AGA, Advocate for the Respondent

Judgement

A.N. Venugopal Gowda, J.—This writ petition was filed to declare that the condition imposed in the order dated 14.07.2014, as at Annexure-N, passed by the 2nd respondent and in the renewed licence dated 14.07.2014 as at Annexure-M, in so far as it relates to, reducing the number of machines to be used in the petitioner's sawmill i.e., from four vertical machines to one vertical machine and from four horizontal machines to one horizontal machine, is without authority of law and ultra vires the powers conferred under the Karnataka Forest Act and Rules made thereunder.

2. The petitioner, a sawmill owner, made an application for renewal of the licence for the period 2014-15. Considering the said application, by an order dated 14.07.2014, the licence was renewed by reducing the number of both horizontal and vertical machines to be used in the petitioner's sawmill, from four to one. The petitioner claims that he has obtained HT power supply of 103 KVA to run the sawmill and has engaged 25 employees apart from 10 labourers to work as helpers and cleaners and that he has made huge investment for purchase of the machinery and on account of the unilateral decision taken to reduce the number of machines, his investment would go waste and the livelihood of himself and the

persons employed in the sawmill would be severely affected.

3. Sri V. Lakshminarayana, learned Senior Advocate, contended that the impugned action is violative of the right to carry one business guaranteed under Article 19(1)(g) of the Constitution of India. He submitted that no opportunity of hearing was provided to the petitioner, prior to the decision taken to reduce the number of machines both horizontal and vertical, from four to one, and thus, there is violation of principles of natural justice and hence, interference is called for.

4. Sri S. Lakshminarayana, learned AGA, on the other hand contended that, if the petitioner had any objection in the matter of renewal of sawmill licence, opportunity was provided to approach the Licensing Authority within a period of 30 days and since the petitioner has not availed the said opportunity, which is clear from Annexure-N, impugned in this writ petition, the writ petition is not maintainable. He submitted that the impugned action being neither arbitrary nor illegal, no interference is called for.

5. Though number of contentions were raised by learned advocates on both sides, the one which must be taken note of by me is that which goes to the root of the matter, i.e., the decision having been arrived at in violation of principles of natural justice.

6. Learned AGA did not repudiate the contentions urged by Sri V. Lakshminarayana, learned Senior Advocate, that the petitioner was not provided with an opportunity of hearing prior to the decision taken with regard to the renewal of licence, by reducing the number of machines both horizontal and vertical, from four to one. Resistance of learned AGA is with reference to the condition appearing in Annexure-N is, that if the petitioner had any objection in the matter of renewal of licence, he ought to have preferred a petition seeking review, within a period of 30 days. The Court's attention was drawn to a condition to the said effect, appearing in Annexure-N, which being relevant is extracted hereinbelow:

7. Indisputably, in order to carry on the business of sawmill, a licence is required and that the petitioner had the licence which was valid up to 2013-14. When an application was made seeking renewal for the period 2014-15, Annexure-N was issued renewing the licence but reducing the number of both horizontal and vertical machines to be used in the sawmill, from four to one. While taking the said decision, which is prejudicial to the interest of the licensee - petitioner, the minimum principles of natural justice of notice and opportunity to represent the case ought to have been provided. It is not disputed that no such opportunity was given before taking the decision to reduce the strength of the machinery while renewing the licence.

8. The decision taken is certainly in violation of principles of natural justice which would have been sufficient to annul the impugned action and direct the Authority to reconsider the matter. However, there being a provision made in Annexure-N,

to submit a petition within 30 days for reconsideration, for the present, it is unnecessary to quash Annexures - N & M. Instead, the petitioner may be permitted to approach the Licensing Authority for reconsideration, more particularly, on account of the condition in Annexure-N, extracted supra.

In the result, writ petition is disposed of, permitting the petitioner to approach the 2nd respondent - Licensing Authority, with a petition seeking reconsideration.

Petitioner is granted time up to 24.11.2014 to submit the review petition to the 2nd respondent, who shall consider the same in accordance with law, by granting reasonable opportunity of hearing to the petitioner and take decision with expedition and before 10.01.2015. Till then, the interim order of stay passed in this petition, shall continue to operate. The 2nd respondent - Licensing Authority shall arrive at a reasoned decision in the matter.

All other contentions of both sides are left open.

No costs.