(1989) 06 GAU CK 0006

In the Gauhati High Court

Case No : Civil Rule No. 1393 of 1987

Md.Ataur Rahman APPELLANT

Vs

State of Assam RESPONDENT

Date of Decision : 19-06-1989

Acts Referred:

Citation : (1991) 1 GLJ 281

Hon'ble Judges : B.L.Hansaria, J and W.A.Shishak, J

Bench : Division Bench

Advocate : A.Hai, S.A.Laskar, D.P.Chaliha, B.S.Sinha, A.Hazarika, A.M.Majumdar, Advocates appearing for Parties

Judgement

B.L. Hansaria.J.

1. The petitioner was granted permission on 1.6.84 to start a new saw mill. Pursuant to the permission the petitioner invested more than a sum of Rs. 9,00,000/ of which details have been given in para 31 of the petition. Subsequently when the time of issuing licence came the petitioner was told that the permission granted should be treated as "automatically cancelled? in vie v of the policy decision taken by the Government on 2.5.85 to ban installation of fresh saw mills, It is this order which has been impugned in this application under Article 226 of the Constitution.

2 Shri Laskar has contended that a very identical case came up for decision of this Court in Joyjit Das vs. State of Assam, (1989) 1 GLR 63 where this Court set aside the impugned order of cancellation and directed that the petitioner shall be allowed to run his mill. In corning to the aforesaid decision this Court mentioned about the doctrine of promissory estoppel and referred in this connection to Union of India vs. Godfrey, AIR 1986 SC 806. It is contented by Snri Liskarthae in view of the aforesaid decision the present petitioner should also be granted identical relief. Learned counsel has brought to our notice that the policy decision was as reflected in Annexure A to the counter affidavit, "not to issue permission/

recommendation for any new mills" (emphasis supplied). It is contended by Stiri Laskar that the present was not a new mill for which permission was sought after the issuance of the policy decision.

3. Shri Chaliha appearing for the respondents has however drawn our attention to Bakul Cashew Co vs. Sales Tax Officer, AIR 1987 SC 2239 wherein the doctrine of promissory estoppel was not applied where the exemption from sates tax on the imported cashew nuts was withdrawn within a month. This view was however taken because no particulars were given as to who was present in he meeting wherein the decision to grant exemption was announced, what representation was actually made and whether any of the manufacturers acted on the basis of the said representation and how was he prejudicially affected thereby. In the present case full details are there. It is clear that the" representation was to the petitioner who had invested more than a sum of Rs. 9,00,000/ and had thereby acted to his prejudice. We arc, therefore, satisfied that the present case is on ail fours with the decision of this Court in Joyjit and the judgment rendered by the Supreme Court in Bakul Cashew Co. (supra) cannot stand in the way of the petitioner.

4. In the aforesaid premises, we quash the impugned order and direct the authorities to grant licence to The petitioner to run his saw mill. This would be dune within a period of 3 months from the date of receipt o this order by the respondents. It is apparent that it would be open to the respondents to impose conditions for grant of licence of which mention had been made in the permission granted to the petitioner in 1984.

5. In the result, the petition is allowed as aforesaid.

