
(2022) 03 PAT CK 0013

In the Patna High Court

Case No : Letters Patent Appeal No. 681 Of 2019 In Civil Writ Jurisdiction Case
No. 1734 Of 2016

Mubarak Hussain @ Md. Mubarak Hussain

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 07-03-2022

Acts Referred:

Citation : (2022) 03 PAT CK 0013

Hon'ble Judges : Ashutosh Kumar, J;Anjani Kumar Sharan, J

Bench : Division Bench

Advocate : Amarnath Singh, Binod Kumar Mishra

Final Decision : Dismissed

Judgement

Heard Mr. Amarnath Singh, learned Advocate for the appellant. There is no appearance on behalf of the State.

The appellant has challenged the order dated 15.05.2019, passed by the learned Single Judge in CWJC No.1734 of 2016, whereby the request made by the appellant to set aside the order dated 22.06.2015 of the Three Members Committee headed by the Principle Chief Conservator of Forest, Bihar, Patna declining the request for grant/renewal of the licence to carry on Saw Mill in the district of Motihari, has been rejected.

It appears from the records that the appellant was issued a licence under Bihar Saw Mill Regulation Act, 1990, vide Licence No.18 of 1995 for a period of one year till 31.12.1995. No application was filed by the appellant for renewal of the aforesaid licence. But, he preferred two writ applications before this Court vide CWJC No.13134 of 2003 and CWJC No.2576 of 2009, the former being dismissed for non-prosecution and the latter resulting in a direction by this Court to the licensing authority to look into the grievance of the appellant and pass necessary orders.

When nothing was done, the appellant again preferred CWJC No.3305 of 2014,

which was disposed of on 22.01.2015 holding that the case of the appellant required a consideration by the Three Member Committee for renewal of his licence as well as for replacement of the Saw Mill of the appellant in the seniority list at an appropriate place.

The appellant was given the liberty to file a fresh objection along with a copy of the licence as well as up-to-date renewal fee and the Three Member Committee was directed to look into the entire aspect of the matter after giving opportunity of hearing to the appellant and to take a decision.

Pursuant to the aforesaid direction given by this Court in CWJC No.3305 of 2014, the Three Member Committee headed by the Principal Chief Conservator of Forest passed an order dated 22.06.2015.

It further appears from the aforesaid order that the records submitted by the District Forest Officer, Motihari Forest Division revealed that there was no record of the licence of the appellant available in the Motihari Forest Division ever since its creation in the year 2003 and that the appellant had never applied for renewal of his licence from the year 1996 onwards.

The records further reveal that the Saw Mill of the appellant was sealed on 20.09.2011 on the charge of being run without any valid licence and a prosecution also was launched against him.

Under the Bihar Saw Mill Regulation Rules, 1993, any licence issued under the Bihar Saw Mill Regulation Act, 1990 is valid only for one calendar year which has to be renewed at least one month prior to the expiry of the said licence. Since the Three Member Committee found that the licence of the appellant had expired on 31.12.1995 and that no attempt was made for its renewal for two decades, it was found difficult to sustain the claim of the appellant for renewal of his licence.

Against the aforesaid order passed by the Three Member Committee, the appellant came before this Court wherein the learned Single Judge by his judgment dated 15.05.2019 rejected the claim of the appellant.

It was also found by the learned Single Judge that with the continuing mandamus was being issued by the Hon'ble Supreme Court with respect to grant of licence under the Bihar Saw Mill Regulation Act, 1990, the number of saw mills qua each district has been ascertained and only 86 saw mills were permitted in the district of Motihari. The saw mills which were in operation and fell in the seniority list were granted the licence and their request for renewal has been sustained.

We do not find any fault with the learned Single Judges' order as the appellant had never got his licence renewed after 1995 and there is no record with respect to his seniority qua the other Saw Mills established in the district for him to be considered for grant or renewal of licence.

This appeal has no merits and the same is dismissed.