
(2015) 01 PAT CK 0122
In the Patna High Court
Case No : CWJC No. 3305 of 2014

Mubark Hussain	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 22-01-2015

Acts Referred:

Citation : (2015) 3 PLJR 120

Hon'ble Judges : Jyoti Saran, J

Bench : Single Bench

Advocate : Uma Shankar Verma and Binod Kumar Mishra, for the Appellant;
Dinbandhu Singh, Advocates for the Respondent

Final Decision : Allowed

Judgement

Jyoti Saran, J—Heard Mr. Uma Shankar Verma, learned counsel for the petitioner and learned counsel for the State. The petitioner is aggrieved by the order dated 9.1.2014 passed by the Forest Officer-cum-Divisional Forest Officer, Motihari Forest Division, Motihari District, East Champaran whereby the prayer made by the petitioner for renewal of his licence, has been rejected on the following grounds:--

"(a) The petitioner did not produce his original licence.

(b) The renewal fee was not deposited; and

(c) The claim of the petitioner has been rejected by the Three Member Committee presided by the Principal Chief Conservator of Forest constituted following the Supreme Court direction in the writ petition No. 202 of 1995 and in pursuance of the Resolution No. 2563 dated 16.6.2012."

2. Mr. Verma learned counsel for the petitioner submits that although at the relevant time the original licence of the petitioner was not available with him in which circumstance the claim was sought to be verified from the Divisional Manager, Forest Project Division, Bettiah but he did not respond to the request

and did not furnish the information. He submits that the Three Member Committee constituted under the orders of the Supreme Court simply rejected the claim of the petitioner on grounds that no objection had been filed by the petitioner against the proposed list when in fact an objection pursuant to the Supreme Court direction had been filed before the Principal Chief Conservator of Forest on 4.9.2012, a copy of which is placed at Annexure-16 to the supplementary affidavit and which fact also finds noted in the impugned order passed by the Divisional Forest Officer placed at Annexure-12. It is submitted that the renewal fee was not being accepted by the statutory authorities in view of the monitoring of the matter by the Supreme Court. It is sought to be contended by Mr. Verma that whereas the petitioner is a bona fide licensee under the Bihar Saw Mills (Regulation) Act, 1990 (hereinafter referred to as "the Act") and rules framed thereunder and possesses Licence No. 18 of 1995 yet his request for renewal and for placement in the seniority list, is being objected to by the statutory authorities on erroneous grounds.

3. A counter affidavit has been filed in which the stand taken in the impugned order finds support.

4. I have heard learned counsel for the parties and I have perused the materials on record.

5. May be at the time of consideration of the case, the petitioner did not produce the original licence but the fact is not disputed that he holds a valid licence under the Act and which fact is not only supportive from the copy of the licence present at Annexure-1 rather the original copy of the licence also was produced by Mr. Verma during course of hearing of this writ petition. Thus any doubt regarding the petitioner being a bona fide licensee, stands removed. A copy of the objection against the seniority list is also placed at Annexure-16 to the supplementary affidavit which though in not so many words but yet is a format of an objection and thus the opinion drawn by the Three Member Committee which held its meeting on 8.9.2012 to reject the claim of the petitioner on grounds of non-filing of objection as contained in Annexure-7 is not correct.

6. In the circumstances discussed, the petitioner's case requires a reconsideration and in which view of the matter the finding of the three Member Committee as contained in the proceeding dated 8.9.2012 in so far as it relates to the petitioner whose name appears at Serial No. 7 of the order, a copy of which is present at Annexure-7 is set aside and for the reasons discussed hereinabove, even the order of the Divisional Forest Officer bearing Memo No. 31 dated 9.1.2014 present at Annexure-12 cannot be upheld and is set aside. The matter is remanded back to the Three Member Committee headed by the Principal Chief Conservator of Forest to consider the case of the petitioner for renewal of licence as well as for placement in the seniority list. The petitioner shall be at liberty to file a fresh objection along with copy of the licence as well as up-to-date renewal fee and whereupon the case of the petitioner for grant of renewal of his, licence as well as his inclusion in the seniority list would be

considered by the Three Member Committee afresh and appropriate orders be passed in accordance with law and after giving opportunity of hearing to the petitioner.

7. The petitioner would appear with the copy of this order before the Principal Chief Conservator of Forest on/or before 2.2.2015 and whereupon he shall proceed in the matter in the light of the stipulation made hereinabove to dispose of the claim of the petitioner within three months from the date of receipt/production of a copy of this order. The writ petition is allowed with the direction aforementioned.