

(2003) 03 JH CK 0069

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1899 of 2002

Shyamapado Kumbhakar

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-03-2003

Acts Referred:

Bihar Saw Mills (Regulation) Act, 1990 — Section 5, 59
Constitution of India, 1950 — Article 226

Citation : (2003) 2 JCR 756

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : S.N. Das, for the Appellant; P. Modi, GP I, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard the counsel for the parties.

2. This case is one of the instances which will show how a person in connivance with the officers of the Forest Department, continued to carry on saw mill business even without obtaining a valid licence.

3. In the instant case, the petitioner filed an application for grant of licence under the Bihar Saw Mill Regulation Act, 1990. Para 5 of the writ application reads as under :

"That it is further stated that the petitioner is a license holder and license was granted to the petitioner u/s 5 of the Act by the competent authority under Sub-section (2) of Section 3 of the Act dated 12.10.1996 in the name of M/s. Pradip Saw Mills. The said license was renewed from time to time u/s 5 of the Act."

4. From perusal of annexure 1 it appears that it is not a license rather, it is an application filed by the petitioner for grant of license. The officers of the respondent Forest Department allowed the petitioner to carry on the business and the petitioner continued to carry on the business taking himself as the

deemed licensee under the proviso to Section 5 of the said Act. A Division Bench of this Court struck down the said proviso to Section 5 of the said Act in the case of the Narayan Saw Mill v. State of Bihar reported in 2002 (3) JLJR 306 : 2002 (3) JCR 690 (Jhr). In the operative portion of the judgment the Division Bench directed the Registrar General of this Court to send a copy of the said judgment forthwith to the Secretary, Forest Department, Government of Jharkhand and the Principal Chief Conservator of Forest (in short PCCF), Jharkhand to enable them to circulate the judgment to the licensing authorities in all the districts of the State so that operation of saw mill and saw pit by any person without having any valid license or on the basis of deemed licensee be stopped. The judgment was delivered by the Division Bench on 14.8.2002 and a copy of the same was already sent to, the aforementioned authorities of the Forest Department. The Division Bench observed that if it is found that even after the judgment any person is still carrying the said business on the basis of deemed licensee then the concerned officer of the forest department within whose jurisdiction such saw mill or saw pit falls shall be prosecuted for committed contempt of this Court.

5. So far the instant case is concerned, the petitioner not being the licensee by obtaining a valid license, I am not inclined to grant any relief to the petitioner. This application is dismissed. Let a copy of this order be handed over to Mr. Pradeep Modi, learned GPI to immediately and forth with transmit it to the PCCF, Jharkhand, Ranchi.