

V.Jayakumar. Vs. the State of Tamil Nadu,

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Court : Chennai

Decided On : Jun-14-2012

Judge : R.Sudhakar, J.

Acts : [Constitution of India](#) - Articles 226

Appeal No. : W.P.No.14979 of 2012 and M.P.No.1 of 2012

Appellant : V.Jayakumar.

Respondent : The State of Tamil Nadu,

Advocate for Def. : Mr.M.K.Subramanian, Adv

Advocate for Pet/Ap. : Ms.G.Thilakavathi, Adv.

Judgement :

Writ Petition is filed under Article 226 of the [Constitution of India](#) praying to issue a Writ of Certiorarified Mandamus, calling for the records of the fifth respondent dated 21.04.2012 made in f/vz;/,/ep/bgh/(&g)fhgl;L-nfh/vz;/2012 and quash the same and consequently direct the fourth respondent to grant licence for carrying on the saw mill in the name of "Jayakumar Saw Mills" as per the recommendations made by the fourth respondent in the proceedings dated 03.05.2012 made in e/f/vz;/3356/2012/vy;.

ORDER

1. Writ Petition is filed praying to issue a Writ of Certiorarified Mandamus, calling for the records of the fifth respondent dated 21.04.2012 made in f/vz;/,/ep/bgh/(&g)fhgl;L-nfh/vz;/2012 and quash the same and consequently direct the fourth respondent to grant licence for carrying on the saw mill in the name of "Jayakumar Saw Mills" as per the recommendations made by the fourth respondent in the proceedings dated 03.05.2012 made in e/f/vz;/3356/2012/vy;.

2. Mr.M.K.Subramanian, learned Special Government Pleader (Forest) takes notice for respondents 1 to 4 and Mr.Varunkumar, learned counsel takes notice for the fifth respondent. By consent the writ petition is taken up for final disposal.

3. The very same issue was considered and disposed of by this court in batch of writ petitions in W.P.No.12861 of 2012 etc., by a common order dated 12.6.2012. The relevant portion of the common order dated 12.6.2012 reads as follows:-

"21. At the time when the order was passed on 29.10.2002, there was no Rules. The Hon'ble Apex Court specifically directed the State Governments to frame Rules. Ultimately, in the year 2010, the Tamil Nadu Regulation of Wood Based Industries Rule 2010 was brought into effect from 21.10.2010. Under the said Rules, the District Forest Officer is the authorised officer to grant the licence and before granting such licence, certain procedures have to be complied with. One of the conditions for grant of licence is that the concurrence of the Central Empowered Committee has to be obtained and that is the mandate as per the order of the Supreme Court.

22. In view of the directions of the Hon'ble Apex Court order dated 29.10.2002, it is clear that the Saw Mills, Veneer, Plywood Industries cannot operate without the licence issued by the competent authority and therefore, the petitioners cannot make a plea for issuing an order to restrain the electricity board from disconnecting the power supply or for a direction to continue the industries without a licence issued by the competent authority.

23. In such view of the matter, unless and until the licence is issued after complying with the formalities as required under the rules and the direction of the Supreme Court, no right will accrue to the petitioners to run the industries, which

admittedly, are unauthorised. Many of the industries have expressed their grievance before this Court that they have made applications to the competent authority for grant of licence and in many cases their applications have been considered, processed and forwarded to the State Level Committee for scrutiny and for further consideration by the Central Empowered Committee for its approval, but no orders are passed. The inordinate delay is causing prejudice. It is further contended that since the recommendations of the District Forest Officer/competent authority has already been given, they should be allowed to run the industries. This relief apparently cannot be given in view of the specific direction issued by the Hon'ble Apex Court that no State or Union Territory shall permit any unlicensed saw-mills, veneer, plywood industry to operate without proper licence and also in view of the direction to close the unlicensed units forthwith.

24. On the contrary, in view of the Tamil Nadu Regularisation of Wood based Industries Rules 2010, if the individual industries viz., Saw-mills have made an application and if such application is in proper order, the competent authority is bound to forward the same to the State Level Committee and the State Level Committee shall after scrutiny, shall place the same before the Central Empowered Committee for concurrence. It is only thereafter that the licence can be issued by the competent authority. The respondents have in their counter stated that a large number of licences have been issued after concurrence of the Central Empowered Committee. They also state the reason for the time taken to process the application. Considering the provisions of the Tamil Nadu Regularisation of Wood based Industries Rules 2010 and the order of the Apex Court not to permit unlicensed wood based industries, the petitioners cannot insist for electricity or an order of court to run the industry pending consideration of their claim. This will be contrary to the order passed by the Apex Court. The learned counsel for the petitioners pleaded that the application may be directed to be considered at an early date pleading that their lively hood is very much affected. In this regard some indulgence can be shown, however, within the four corners of law.

25. In view of the above, the District Forest Officers concerned are directed to verify the individual applications and if the applications are in order, the same shall be forwarded to the State Level Committee forthwith and the State Level Committee is directed to scrutinise and place the same before the Central Empowered Committee at the earliest for its consideration, (i.e.) without undue delay. This will ensure that the applications are considered as early as possible and assuage the grievance of the individuals that their right to livelihood is being affected for non consideration of the applications in time. It is, however, made clear that till such time the license is issued by the competent authority after following the procedure as applicable, the petitioners in each one of the case cannot claim as a matter of right to run the industry or for grant of electricity power supply.

26. In some cases, it is represented that the applications have been returned for certain defects. It is open to the individual saw mills, veneers, plywood industries to resubmit the applications in proper format with requisite fee to the appropriate authority, who shall thereafter scrutinise it and forward the same to the Empowered Committee for its approval in the manner stated above without undue delay. The Court requests the competent authority to consider the individual application on merits expeditiously to avoid the spate of writ petitions that are being filed.

27. These writ petitions are disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed."

4. In view of the above decision, this writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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