

(2016) 03 JH CK 0137

JHARKHAND HIGH COURT

Case No: L.P.A. No. 448 of 2014

State of Jharkhand

APPELLANT

Vs

M/s Satya Saw Mill

RESPONDENT

Date of Decision: March 15, 2016

Citation: (2016) 3 JLR 415

Hon'ble Judges: Mr. D.N. Patel and Mr. Amitav K. Gupta, JJ.

Bench: Division Bench

Advocate: Mr. Atanu Banerjee and Mr. D.C. Mishra, Advocates, for the Appellant; Mr. Ananda Sen, Advocate, for the Respondents

Final Decision: Disposed Off

Judgement

D.N. Patel, J. - This Letters Patent Appeal has been preferred against the order/judgment delivered by the learned Single Judge in W.P.(C) no. 1951 of 2013 vide order dated 01.04.2014, whereby the petition preferred by the respondent was allowed and the order passed by the Three Member Committee dated 28.01.2005 was quashed and set aside, especially paragraph no.8 of the resolution thereof.

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that the respondent is the original petitioner, who was granted Saw Mill license in the year 1984. The said license was made operative without any objection for several years, and, in the year 1995 because of certain irregularities, the confiscation order was passed on certain woods which were found in unauthorized possession of the respondent, vide Confiscation Case no. 1 of 1994-1995 which is at Annexure-8, to the memo of the appeal. It further appears from the facts of the case that vide order dated 12.12.1996 the Hon'ble Supreme Court in Writ Petition (Civil) no. 202 of 1995 observed that every district will have to stipulate the number of Saw Mills i.e., it should have to decide the number of Saw Mills in particular district. A High Power Committee was constituted in the year 2001, vide erstwhile State of Bihar upon bifurcation of the State, the High Power Committee has been reconstituted and ultimately a resolution was passed by

the High Power Committee constituted by the State of Jharkhand that in District, Deoghar, there shall be 21 Saw Mills.

3. It further appears from the facts of the case that the Central Government has also laid down certain criteria which has been referred by Hon"ble the Supreme Court in the order dated 12.12.1996 in Writ Petition (Civil) no. 202 of 1995 in which it has been stated that criteria laid down by the Central Government shall be followed by the State, the guidelines which are followed by the State have been referred in the case **T.N. Godavarman Thirumulpad v. Union of India and Others reported in 2009 (16) SCC 398.**

4. It further appears from the facts of the case that as per Central Government guidelines last come should go first, meaning thereby, that the last Saw Mill which has been given the license should be ousted first. It further appears from the facts of the case that the respondent (original petitioner) is senior most Saw Mill and therefore if any Saw Mill is to be closed down in the District of Deoghar which are beyond the number of 21 then extra Saw Mill should be closed, other than the respondent (original petitioner).

5. It further appears from the facts of the case that as per the policy evolved by the State of Jharkhand for limited Saw Mills up to number 21 in the District, Deoghar, the criteria have been laid down that if there are more than three confiscation orders, such Saw Mills should not be continued. The case of the respondent is not falling within these criteria because there are no more than three confiscation orders against the respondents. This aspect of the matter has been properly appreciated by the learned Single Judge while quashing and setting aside of paragraph no.8 of resolution dated 28.01.2005 (Annexure-1) of the writ petition.

6. We, therefore, see no reason to take any other view other than what is taken by the learned Single Judge while allowing W.P(C) no. 1951 of 2013, hence, this Letters Patent Appeal is hereby dismissed.