

# SUPREME COURT OF INDIA

Jawahar Lal Sharma

Vs.

Divisional Forest Officer, U.P.

C.A.No.670 of 2002

(R.C. Lahoti and Brijesh Kumar JJ.)

24.01.2002

## JUDGMENT

### **R.C. Lahoti, J.**

1. Leave granted in both the S.L.Ps.
2. In these appeal by special leave the question arising for decision is the right of the appellants to renewal of their licences under the provisions of U.P. Establishment and Regulations of Saw Mills Rules. 1978.
3. Jawahar Lal Sharma, appellant No. 1 in civil appeal arising out of S.L.P. (C) No. 4995 of 2001, purchased the saw mill from the Gauri Ram on 15.11.1985. Gauri Ram was holding a licence for establishing and operating of the saw mill since 15.7.1981. The licence was sought to be transferred in the name of appellant No. 1 by Divisional Forest Officer, Ghazipur. Thereafter, year by year, fees for renewal of the licence has been deposited and applications moved in that regard. In case of Munna Khan, appellant No. 2, he purchased the saw mill in the year 1991 from one Ram Prasad Vishwakarma who was holding the requisite licence since 16.6.1990. He too sought for transfer of the licence and went on depositing renewal fee year by year upto the year 1997. The controversy arose for years 1998, 1999 and 2000 when the prayer for renewal was refused. The appellants approached the High Court of Allahabad by filing a writ petition. By order dated 14.11.2000, a Division Bench of the High Court dismissed the writ petition by simply observing that the appellants were at liberty to move fresh applications for grant of licence. The High Court did not go into the question of renewal.
4. In civil appeal arising out of S.L.P. (C) No. 4694 of 2001 also the two appellants namely Azeemun Nisha and Govind Prasad Sharma are holding licences for establishment and operation of saw mills. They have been seeking renewals. Renewal was not granted in the years 1998 and 1999 and rejected by order dated 26.7.2000. They also filed a writ petition before the High Court of Allahabad which has been disposed of by a similar order by a

Division Bench allowing liberty to the appellants to move fresh applications for grant of licence.

5. It is not necessary for us to go into noticing further details of facts in view of the direction which we propose to make. It appears that a larger issue dealing with ecology, protection and conservation of forest (*W.P.(C) No. 202 of 1995*<sup>1</sup>, *T.N. Godavarman Thirumulkpad v. Union of India and others*<sup>2</sup>, is pending in this court wherein from time to time directions are being issued. Two such directions dated 12.12.1996 and 4.3.1997 are to be found reported. On account of the Supreme Court of India being seized of the matter and monitoring the issue, there has been reluctance on the part of the Government officials to deal with saw mill licences and their renewals. In the case before us, the renewal fees have been deposited by the appellants but orders of renewal are not passed. A vague plea is raised on behalf of the respondents that the applications for renewal were not in prescribed proforma. If that be so, the defect could have been pointed out to the concerned applicant and an appropriate application in the prescribed proforma could have been called for to be substituted in place of defective application, if any or such other particulars as may be necessary could have been called for. The relevant consideration for and the rights and obligations flowing from a prayer for renewal of a pre-existing license are different rather substantially at variance from those for an application for the grant of a fresh licence. The learned counsel for the appellants submitted that an application for the grant of a fresh licence may not be entertainable at all though the appellants may be entitled to renewal subject to such directions, as the Supreme Court of India may be pleased to make. The orders made by the High Court do not, therefore, meet the ends of justice. Admittedly, the licence of any of the appellants has not been cancelled.

6. No order or direction made by the Supreme Court of India to the effect that even existing licences shall not be renewed, has been brought to our notice. On the contrary, the learned counsel for the appellants has invited our attention to orders dated 24.1.2000 passed in *Civil Misc. Writ Petition No. 991 2000, Gyaneshwar Prasad Singh v. Van Sanrakshak Varanasi Vritva Varnasai and others*, order dated 19.2.2000 in *Civil Misc. Writ Petition No. 9148 of 2000 Kanwal Deen Chauhan and others. v. Conservator of Forests and others*, order dated 31.3.2000 in *Civil Misc. Writ Petition No. 150002 of 2000 Vishwa Bhandar Saw Mills v. Divisional Forest Officer and another*, wherein having noticed the directions made by this court in *T.N. Godavarman Thirumulkad v. Union of India and others*<sup>3</sup>, the High Court of Allahabad has, in similar circumstances, quashed the orders passed by the respondents and directed that on completing all the necessary formalities by the petitioners therein and depositing the licence renewal fee for all the previous years as well as the current years, licences to run the saw mill in favour of the petitioner therein shall be granted if there be no legal impediment. The learned counsel submitted that there is no reason why the same High Court should not have taken a similar view in the cases of these appellants. We find merit in the submission of the learned counsel.

7. For the foregoing reasons, the appeals are allowed and disposed of by directing that the prayer for renewal of the licence made by each of the appellants shall be dealt with by the competent authorities of the State in accordance with law. In doing so, the authorities shall

keep in view the directions issued or which may be issued by the Supreme Court of India from time to time.

8. We make it clear that we have disposed of the individual cases of the appellants before us and if any orders generally made or to be made by the Supreme Court of India in public interest may be inconsistent with the directions made hereinabove, then the former shall be given effect to. The appeals stands disposed of accordingly.

<sup>1</sup>(1997)2 SCC 267

<sup>2</sup>(1997)3 SCC 312

<sup>3</sup>1997(3) SCC 312