

T.N. Godavarman Thirumulpad

v.

Union of India & Others

(Y.K. SABHARWAL ARIJIT PASAYAT and S.H. KAPADIA, JJ.,)

(Supreme Court Of India)

Interlocutory Application No. 981 Of 1995 With Batch | 29-10-2004

I.A. No. 1159:

1. Taken on Board.
2. Issue notice to respondents.
3. Copy of the application has also been given to learned amicus curiae who may also examine the matter.
4. Adjourned, to be listed on the next date when this Bench assembles.

I.A. No. 981 in IA 458:

5. Having heard learned Counsel, in respect of order dated 15th January, 1998, we accept the recommendation of CEC dated 29th August, 2003 which is in the following terms:

“The CEC, therefore, recommends that I.A. No. 458 may be disposed of with the clarification that the Customs Department and the Border Security Force are at liberty to take appropriate action under the provisions of the Customs Act, 1962 for confiscation and disposal of the timber and timber products and recovery of fines/penalties in all the States/UTs except North/Eastern States (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura). However, such confiscated timber and timber products should be disposed of through open auction/sealed tender through the respective State Forest Department and the sale proceeds, after deducting the expenses, should be deposited with the concerned Central Government Department.”

In addition, we direct that before auction/tender, reserved price must be fixed.

6. The I.As. are disposed of accordingly.

I.A. No. 994 in I.A. 548:

7. List the I.A. along with I.A. No. 548. I.A. Nos. 1005-1006 in IA 945 in IA 883.

8. The I.As. are dismissed.

I.A. Nos. 1021-1022:

9. These I.As. are dismissed as not pressed.

I.A. Nos. 1030-1031 in IA 921 in I.As. 813-815:

10. We have heard learned Counsel and perused the order dated 18th August, 2003 as also the resolution of the Government of Bihar, Department of Environment and Forest, dated 13th November, 2003, Sub-clause (b) of Clause (6) of Para 4(B) of Resolution No. 418-E, dated 8th July, 2002 reads as under:

“(b) The seniority of sawmills falling under Section 5(b) of the Bihar Saw Mills (Regulation) Act, 1990 shall be determined on the basis of their date of registration in the Industries Department. Under this rule only those saw mills shall come who were operational prior to coming into force of the Act and who have applied for licence within 30 days from the date of implementation of the Act i.e. 1.5.90 and licence has been granted to them.”

It is implicit that the aforesaid date would, in fact, be the date when the Rules came into operation as the application for grant of licence could be filed within thirty days therefrom. This would be kept in view while determining seniority in terms of the order dated 18th August, 2003.

11. The I.As. are disposed of accordingly.

I.A. No. 941 in I.As. 754-755 & I.A. No. 777:

12. A copy of the affidavit filed by the State of Orissa shall be handed over to learned Amicus Curiae who shall have the same examined by CEC and file response thereto. The parties are permitted to give their suggestions, if any, in respect of the area beyond 10 kms. from the forest to the State Government as also to CEC. Those suggestions shall also be examined and necessary responses filed.

13. The I.As. are adjourned.

I.A. Nos. 1090 & 1091:

14. Let the CEC send its recommendation in respect of the prayer made in the application.

I.A. No. 1036:

15. The CEC shall examine this application and file its recommendation.

I.As. 1131-1133, 1138-1146, 1148, 1184:

16. List along with I.A. No. 941 in I.As. 754-755.

I.A. Nos. 956, 1121 & 960:

17. None appears for the applicants. The I.As. are dismissed.

I.A. Nos. 963-964:

18. Learned Counsel seeks leave to withdraw the applications. However, Mr. Lalit, learned amicus curiae, submits that there is something serious about which HPC would like to place a report before this Court. Let that report be filed within four weeks.

19. List the I.As. thereafter.

I.A. Nos. 969-970:

20. These applications be taken up along with I.A. No. 1126 on the next date when this Bench assembles.