

17979

15/10/19



GOVERNMENT OF KERALA

Abstract

The Judgment in WP © No.8105/2019 dated 24/07/2019 filed by Sri.P. Vikraman, Proprietor, Kilithattil Wood Industries, Kalanjoor P.O, Adoor before the Honourable High Court - Complied with – orders issued.

FOREST & WILD LIFE (B) DEPARTMENT

G.O.(Rt)No.413/2019/F&WLD Dated,Thiruvananthapuram, 10/10/2019

- 1 Letter No.K.N.C6-1480/13 dated 28/12/2018 of Divisional Forest Officer, Konni
- 2 Order No.Q.L-703/2019 dated 30/03/2019 of Chief Conservator of Forests, Southern Circle, Kollam
- 3 Revision petition filed by Sri. P.Vikraman, Proprietor, Kilithattil Wood Industries, Kilithattil House, Kalanjoor.P.O, Adoor, Pathanamthitta, Pin – 689 694
- 4 Judgment dated 24/07/2019 in WP © No.8105/2019 of the Honourable High Court.

ORDER

Sri. P. Vikraman, Proprietor, Kilithattil Wood Industries, Kalanjoor PO, Adoor, Pathanamthitta filed a Revision Petition before the Government with a plea for renewal of his sawmill license and requested to issue temporary licence for conducting the wood based industry.

2) Prior to this the application for renewal of license of the said saw mill of the petitioner was rejected by the Divisional Forest Officer, Konni as per letter read as 1st paper above on the following grounds ;

- . O.R. Case 3/97 charged at Padam Forest Station, for illegal sawing of teak wood unauthorizedly transported from Mannarappara Teak Plantation in Naduvathumoozhy Range and machineries of the unit were seized u/s 61 A of Kerala Forest Act.
- . Machinery released to the petitioner vide order of the Honourable District Court, Pathanamthitta dated 30/07/2015 in CMA No.20/98.
- . Against the above order of Honourable District Court, Pathanamthitta Forest Department filed CRP No.264/17 which was pending before the Honourable High Court.

3) Subsequently the appeal filed by Sri. Vikraman before the Chief Conservator of Forests, Kollam was also rejected on the following grounds ;

- i. OR 3/97 filed for illicit cutting and sawing of Teak wood trees transported from Mannarappara Teak Plantations in Naduvathumoozhy Range under Konni Division in the saw mill and seizure of machinery thereafter, under section 61 A of the Kerala Forest Act
- ii. Release of machinery to the petitioner vide order of the Honourable District Court, Pathanamthitta dated 30/07/2015 in CMA 20/98.
- iii. Forest Department filed CRP 264/17 before the Honourable High Court challenging the order of the Honourable District Court, and the same was pending.
- iv. As per the Kerala Forest (Regulation of Saw Mills and Other Wood Based Industrial Units) Rules, 2012 the units should have been functioning prior to 30/10/2002 and should have applied for license before 18/10/2012. But the application for renewal was submitted affixed with prior date of 19/12/2012 which was received on 02/02/2013.
- v. Accordingly the Chief Conservator of Forests, Kollam upholding the order of DFO rejected the appeal, also citing that the matter is subjudice before the Honourable High Court.

4) Against the order of the Chief Conservator of Forest, Kollam the petitioner preferred a Revision petition before the Government (Forest Department) vide third paper above, with a plea for renewal of his saw mill license and request to issue temporary license for functioning of the wood based industry as interim relief.

5) WP © No.8105 of 2019 was filed by Sri. P. Vikraman, proprietor of Kilithattil Wood Industries wherein the Secretary, Kalanjoor Grama Panchayath, Pathanamthitta, Chief Conservator of Forests, Kollam, Divisional Forest Officer, Konni were arrayed as Respondents. Secretary to Government, Forest & Wildlife Department was later arrayed as 5th respondent in the WP © and the revision petition submitted before Government requesting to reconsider the order of Chief Conservator of Forests, Kollam, is presented as Exhibit P 17 in the WP ©.

6) The Honourable High Court vide judgment dated 24/07/2019 directed the additional 5th respondent (Secretary, Forest & Wildlife Department) to consider and pass appropriate orders on Exhibit P17 revision petition filed by the petitioner against Exhibit P16 order with notice to the petitioner and after affording him an opportunity of being heard, strictly in accordance with law, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a certified copy of the judgement . It is also ordered that the additional 5th respondent shall also consider the interim relief sought for in Exhibit P17 and pass appropriate orders, with notice to the petitioner and after affording him an opportunity of being heard, within a period of two weeks from the dated of receipt of a certified copy of the judgment.

7) The Judgment was received in Government on 26/09/2019 and on the basis of the Judgment the petitioner was heard on 09/10/2019 by Additional Chief Secretary (Forest & Wildlife Department) and after examining the Exhibit P17 Revision Petition of the petitioner in detail and hearing both the sides, petitioner and the concerned forest officers, Government have arrived at the following conclusions.

- i. The machinery of the M/s. Kilithattil sawmill was involved in a forest offence and were confiscated by the Authorised Officer and Divisional Forest Officer, Konni as per the provisions of section 61 (A) of Kerala Forest Act, vide order No.KNCI-2540/97 dated 31.12.1997. It is submitted that the validity of any license issued by any authority stands expired as on, 31.12.1997, since the machinery used by the sawmill was confiscated by the Authorized Officer on 31.12.1997 due to the involvement in OR 3/97.
- ii. It is submitted that the petitioner has clearly declared repeatedly that the sawmill is still functioning illegally without any valid licence. As per Kerala Forest (Regulation of Saw Mills and Other Wood-based Industrial Units) Rules, 2012 Rule 21, “the Authorized Officer shall close down any sawmill or wood-based industrial unit which has been found functioning without a valid licence”.
- iii. The petitioner was involved in various forest cases in Konni forest Division and violated the provisions of the Kerala Forest Act, 1961.
- iv. As per Rule 10 (3) (b) (iv) of the Kerala Forest (Regulation of Sawmills and other Wood Based Industrial Units) Rules 2012, an application for renewal of license may be rejected if the applicant has violated any of the rules or provisions of the Kerala Forest Act, 1961. In this case the petitioner has violated the rule provisions in the following case.
 - (a) The application for renewal was submitted after three months from the date of expiry of the period of licence.
 - (b) The applicant has violated any of the rules or any of the provisions of the Kerala Forest Act, 1961 or the Wildlife (Protection) Act, 1972 or any other enactments relating to protection of environment or conservation of biological diversity or rules made thereunder.

8) Further it is found that the delay in filing application was condoned by the advisory committee. It is brought to notice that the petitioner has connived with Forest Department officers for which disciplinary proceedings were taken against four of the officials awarding major penalty (barring three years increment with cumulative effect). This is the primary reason Forest Department has been resistant in giving him license. He has been illegally functioning saw mill after 2012 even without a licence, and has admitted the same during hearing. Forest Department has been lenient and has not booked any case against him for continuously running the saw mill without any licence. It would be inappropriate to grant a temporary licence to a unit which has been functioning illegally.

9) In the circumstances as detailed above it is ordered to ensure that the operation of the wood based industrial unit of the petitioner viz:- M/s. Kilithattil Wood Industries without sanction from the Forest Department in violation of provisions of the Kerala Forest (Regulation of Saw Mills and Other Wood Based Industrial Units) Rules, 2012 and in violation of the provisions of the Kerala Forest Act, 1961 should immediately be stopped. The direction of the Honourable High Court vide judgment dated 24/07/2019 to consider the interim relief sought for Exhibit P17 after hearing the petitioner and pass appropriate orders is complied herewith.

(By order of the Governor)
SATYAJEET RAJAN
ADDITIONAL CHIEF SECRETARY

To:

The Advocate General, Kerala, Ernakulam (With covering letter)

Sri. P. Vikraman, Proprietor, Kilithattil Wood Industries, Kalanjoor PO, Adoor, Pathanamthitta

The Principal Accountant General (Audit / A&E) Kerala, Thiruvananthapuram.

The Principal Chief Conservator of Forests & Head of Forest Forces, Forest Head Quarters, Vazhuthakkad, Thiruvananthapuram.

The Principal Chief Conservator of Forests (Special Afforestation & Nodal Officer), Forest Head Quarters, Vazhuthakkad, Thiruvananthapuram.

The Chief Conservator of Forests, Southern Circle, Vanasree complex, Chinnakkada, Kollam

The Divisional Forest Officer, Office of the Divisional Forest Office, Konni Forest Division, Konni – 689 691.

The Secretary, Kalanjoor Grama Panchayath, Kalanjoor PO, Adoor, Pathanamthitta – 689 694.

The Director, Information & Public Relation (Web & New Media) Department
Forest & Wildlife (PS) Department.

Stock File / Office Copy.

Forwarded /By order
Signature valid
Digitally signed by PRAVEEN
KUMAR S
Date: 2019.10.12 12:30:28 IST
Reason: Approved
Section Officer