



GOVERNMENT OF KERALA

Abstract

WP © No.36715/2018 filed by Sri.Abdul Nazar, Proprietor, Karayil Sawmill and Wood Industries, Karayil House, Edakkara.P.O, Nilambur, Malappuram- Judgement dated 07/01/2022 of the Honourable High Court- Complied with – Orders issued.

FOREST AND WILDLIFE (B) DEPARTMENT

G.O.(Rt)No.154/2022/F&WLD Dated,Thiruvananthapuram, 13-04-2022

Read 1 The Revision Petition dated 24/1/2018 for granting license submitted by Sri. Abdul Nazar

2 G.O.(Rt.) No.368/2018/FWLD dated, 4/08/2018.

3 The judgement dated 07/01/2022 in WP(C) 36715/2018 filed by Sri. Abdul Nazar .

ORDER

Sri.Abdul Nazar, Proprietor, Karayil Sawmill and Wood Industries, had submitted a revision petition as per the 1st paper read above against the rejection of license to his sawmill. Government considered the petition and rejected the same as per the GO read above. Hence, Sri.Abdul Nazar approached the Hon'ble High Court with a WP(C)No.36715/2018. In its judgement dated 07/01/2022, since the revisional authority has not considered the matter based on Rule 10 and since the revisional authority has not considered the points raised by the petitioner in the writ petition, the Hon'ble High Court ordered to reconsider the revision petition filed by the petitioner after giving an opportunity of hearing and also ordered to set aside the said G.O.

The petitioner's Advocate Shri. Joy Sankar was heard by hearing authority on 18/02/2022.

The petitioner was running a saw mill from 1995. He was also having No-objection Certificate from the Forest Department as per order dated 23.1.2003. The petitioner applied for the renewal of the NOC/licence after the promulgation of the new Rule namely, the Kerala

Forest(Regulation of Sawmills and Other Wood Based Industrial Units) Rules, 2012. The Rule says (Rule 10 (4) iii) that license cannot be renewed if the applicant has committed any offense under the Kerala Forest Act, 1961 and Wild Life (Protection) Act, 1972 and Biological Diversity Act, 2002.

In 2005, an OR Case No.4/2005 at Pothukal Forest Station was registered against the petitioner under the provisions of Kerala Forest Produce Transit Rules, 1975 by Forest Range Officer, for illegal transit of wood. Judicial First Class Magistrate Court-II (Forest Offenses), Manjeri convicted the petitioner in the above case under Rule 3(iii) r/w Sec.23(1) of the Rules, 1975. The petitioner pleaded guilty before the learned Magistrate and was convicted and sentenced to pay a fine of Rs.500/- on 28.07.2011. Hence, his application for renewal has been rejected. The counsel of the petitioner submitted that the conviction of the petitioner by the criminal court was on 28-7-2011, which is much before framing of the Rules, of 2012.

Government examined the matter in detail in the light of Hon'ble High Court Order and considered the revision petition under Rule 10. As per Rule 10(1) of Kerala Saw Mill Rules, 2021, application for renewal of licence shall be made by the licensee in Form No.1 C to Authorised Officer, mentioning the current licence number with date of issue and date of expiry. As the petitioner does not have any current licence issued under either rules of 2012 or rules of 2021, he is ineligible to apply under Rule 10. Even if the application is considered under Rule 10(1), the application is liable for rejection as per Rule 10 (4) (iii) since the applicant has violated the provision of Kerala Forests Act, 1961, as per the conviction by JFCM, Court II, Manjeri (Forest offence). That the conviction has been made before Rules of 2012 were framed has no relevance here, since the rules make no distinction between convictions before and after framing of Rules 2012. If the applicant has violated Kerala Forests Act, 1961, at any time, his application is liable for rejection. Hence, since his revision petition has no merit under the purview of existing Acts, rules and regulations, it is rejected. Thereby, direction in the judgment read above of the Hon'ble High Court is complied herewith.

(By order of the Governor)
RAJESH KUMAR SINHA
PRINCIPAL SECRETARY

The Advocate General, Kerala, Ernakulam (With covering letter)
Sri. Abdul Nazar, Proprietor, Karayil Sawmill and Wood Industries,
Karayil House, Edakkara.P.O, Nilambur, Malappuram .

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

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

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

The Divisional Forest Officer, Office of the Divisional Forest Office, Nilambur
North Division, Nilambur, Malappuram

Web & New Media(to publish in the official website).

Stock File / Office Copy.

Forwarded /By order

Signed by Ravindran C

Date: 13-04-2022 12:49:20

Section Officer

Copy to:- O/o Chief Minister/PS to Minister (Forest & Wildlife
Department)/ PA to Principal Secretary (Forest & Wildlife
Department)/Deputy Secretary II (Forest & Wildlife Department)