

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.2626 OF 2022

Between:

M/s. Sri. Pulaji Industries

..

Petitioner

Vs.

The State of Telangana rep. by Secretary to
Environmental Forest, Science and Technology Department, Secretariat,
Hyderabad & 4 others.

.. Respondents

DATE OF THE ORDER PRONOUNCED: **28.02.2023**

1. Whether Reporters of Local newspapers
may be allowed to see the judgment? Yes/No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals Yes/No
3. Whether his Lordship wish to
see the fair copy of the judgment? Yes/No

*** HON'BLE SRI JUSTICE J. SREENIVAS RAO**

+ WRIT PETITION No.2626 OF 2022

% DATED 28TH FEBRUARY, 2023

M/s. Sri. Pulaji Industries .. Petitioner

Vs.

The State of Telangana rep. by Secretary to
Environmental Forest, Science and Technology Department, Secretariat,
Hyderabad & 4 others. .. Respondents

<Gist:

>Head Note:

! Counsel for the Petitioners : Smt K. Pallavi

^Counsel for Respondents : Govt. Pleader for Forests

? CASES REFERRED:

1. 2012 (5) ALD 414

HON'BLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION No.2626 OF 2022

ORDER:

The petitioner filed this writ petition for the following relief:

“to issue an appropriate Writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.4 herein in passing the impugned order vide Rc.No. 1164/1995-K7 dated 20.11.2021 in revoking the License of the petitioner vide License RC.No.1164/N5 i.e., Licence No.03/2016-17 by name M/s. Pulaji Industries Wooden Depot Cum Furniture Workshop, situated at H.No.6-34/5 and 6-36/A, Padmavathi Nagar Village and Mandal Khanapur, Adilabad District, though the alleged offence is already compounded by the respondent authorities and even compounding fee of Rs 65,166/ is duly paid vide Challan dated 07.07.2021 as illegal, arbitrary, amounts to double jeopardy and opposed to the established principles of Law and consequently set aside the Impugned Order dated 20.11.2021 by renewing the Licence of the petitioner immediately forth with....”

Heard Smt. K. Pallavi, learned counsel for the petitioner,

learned Assistant Government Pleader for Forests appearing on behalf of respondent Nos.1 to 5. With the consent of the respective parties the matter is disposed of at the stage of admission.

2. Brief facts of the case are as follows:

The petitioner had obtained license in the year 1996 to run M/s Pulaji Industries and the said license was valid up to 31.03.2010 and the same was renewed from time to time till 2015. In the year 2015, respondent No.5 had issued revised license by modifying the license. According to the said revised license the petitioner has to run and operate only M/s. Pulaji Industries and the permission initially granted to the petitioner to run and operate Furniture Wood Workshop has been withdrawn. Questioning the same, the petitioner filed W.P.No.41647 of 2015 before this Court and this Court granted interim direction in W.P.M.P.No.53751 of 2015 on 22.12.2015 permitting the petitioner to continue

wood workshop activity in the same premises where the petitioner is running Forest Produce Depot, for which the petitioner was already granted license, pending further orders subject to the petitioner maintaining accounts in form 3(A) and 3(B) under Rule 8 of AP/Telangana Forest Produce(Storage and Depot) Rules 1989(for short 'Rules'). Thereafter, license of the petitioner was renewed regularly till 2019. The petitioner has made an application for renewal of license for the year 2020 by paying Challan on 02.01.2020 and by enclosing requisite documents on 25.04.2020. Subsequently, he made representations dated 06.08.2020, 15.10.2020, 21.10.2020 requesting renewal of license and there was no response from the respondents.

3. On 01.08.2020, respondent No.5 issued a show cause notice vide Rc.No.Timber Depots/2020-21/(FRO(K)), stating that, the Deputy Range Officer, Khanapur has found deviation in quantity of timber in excess 179 Nos./0.441

Cmt, on the actual balance quantity of timber available in the Timber Depot. On 08.01.2021 the petitioner submitted explanation to the said show cause notice. He further submits that on the same date respondent No.4 has issued proceedings alleging that the offence is compounded with the consent of the petitioner upon payment of compensation though the petitioner has not admitted the alleged offence and the petitioner has filed appeal before respondent No.3 questioning the confiscation order dated 08.01.2021 passed by respondent No.4.

4. During the pendency of the appeal before respondent No.3, petitioner approached this Court and filed W.P.No.8803 of 2021 questioning the action of respondents in not renewing his license. This Court has disposed of the writ petition on 03.06.2021 directing the respondent authorities to consider the applications of the petitioner dated 06.08.2020, 15.10.2020, 21.10.2020 for renewal of timber

license for his Pulaji Industries Wooden Depot-cum-Furniture Workshop, in accordance with law, provided the application is enclosed with all the relevant documents, preferably within a period of four (4) weeks from the date of receipt of copy of the said order. The petitioner further stated that after disposal of the above writ petition, respondent No.4 sent notice on 13.06.2021 stating as follows:

“Therefore, Sri L. Rajeswar, Proprietor of M/s Pulaji Industries wooden depot cum furniture work shop, Khanapur is directed to pay the compensation as orders issued vide reference 1st cited, then the licence of the M/s Pulaji Industries wooden depot cum furniture workshop, Khanapur may be considered as per rules in vogue.”

5. Thereafter, respondent No.4 issued another notice on 29.06.2021 reiterating the demand made in the earlier notice dated 13.06.2021. The petitioner further submits that though the appeal filed by him is pending, by virtue of notices issued by the respondent No.4 for payment of penalty

amount, the petitioner deposited the penalty amount on 07.07.2021 *vide* Challan No.6101109929. In spite of the same, the respondent authorities failed to renew the license. At that stage, he filed Contempt Case No.1368 of 2021 before this Court. In view of the payment of compounding fee, the petitioner had not prosecuted the appeal and the appeal filed by him was dismissed by respondent No.3 on 24.08.2021 confirming the orders passed by respondent No.4. The petitioner further submits that he paid the amounts pursuant to the notices issued by respondent No.4 dated 13.06.2021 and 29.06.2021 and the respondent imposed fine compounding offences. In spite of the same, respondent No.4 passed the impugned order *vide* proceedings RC.No.1164/1995-K7, 20.11.2021 revoking the license of the petitioner and the same is contrary to law.

6. Learned counsel for the petitioner vehemently contended that respondents imposed fine of an amount of

Rs.65,166/- compounding the offence committed by the petitioner. Questioning the compounding order dated 08.01.2021, the petitioner filed appeal before respondent No.3. During the pendency of the appeal, respondent No.4 issued two notices dated 13.06.2021 and 29.06.2021 directing the petitioner to pay the amount then the license of the petitioner would be considered as per the rules and by virtue of the said notices the petitioner paid the amount as determined by the respondent. In spite of the same, respondents have not renewed the license of the petitioner.

7. Learned counsel further contended that respondent No.4 passed impugned order revoking the license of the petitioner's timber depot. The order passed by respondent No.4 amounts to double jeopardy as the Respondent Authority has already imposed penalty and compounded the offence. The order passed by respondent No.4 is without jurisdiction and contrary to law. Learned counsel for the

petitioner relied upon the judgment reported in **Ch. Muthaiah v. Divisional Forest Officer, Khammam Division, Khammam and another¹**.

8. On the other hand, learned Assistant Government Pleader contended that respondent No.4 has rightly passed the order after following due procedure as contemplated under the Rules.

9. The points for consideration arise in this writ petition are as follows:

- (i) Whether the impugned proceedings passed by the respondent No.4 dated 20.11.2021 is valid under law?
- (ii) Whether the petitioner is entitled to any relief?

Point Nos.1 & 2

10. Having considered the rival submissions made by the respective parties and the material on record, it reveals

¹ 2012 (5) ALD 414

that respondent No.5 has issued show cause notice on 01.08.2020 alleging that the petitioner is in possession of excess timber in his premises and also with other allegations. Pursuant to the said show cause notice, Respondent No.4 passed the following order on 08.01.2021:

“In view of the compounding statement given by Sri L. Rajeshwar S/o Linganna R/o Khanapur, District: Nirmal (Owner of the Pulaji Industries Timber depot cum workshop) I hereby order that a sum of Rs.65,166/- be paid towards compensation by the accused.”

11. Questioning the said order, the petitioner filed appeal before respondent No.3. During the pendency of the appeal respondent No.4 issued notices on 13.06.2021 and 29.06.2021 directing the petitioner to pay the compensation of an amount of Rs.65,166/- and on such payment the license of the petitioner may be considered as per the rules in vogue. Pursuant to the said notice the petitioner paid the amount on 07.07.2021. In spite of the same, the Respondent Authorities have not renewed the license. Aggrieved by the

same, the petitioner filed Contempt Case No.1368 of 2021 before this Court. Learned counsel for the petitioner contended that merely because the petitioner filed Contempt Case, respondent No.4 passed the impugned proceedings dated 20.11.2021 revoking license of the petitioner and that respondent No.4 imposed fine for the very same offence and passed the order dated 08.01.2021, pursuant to the said order only the petitioner paid the amount and the respondent No.4 once again not entitled to pass the impugned order revoking the license of the petitioner for the very same offence committed by the petitioner and the same is contrary to law.

12. ***In Ch. Muthaiah v. Divisional Forest Officer, Khammam Division, Khammam & another***, this Court by considering the provisions of Andhra Pradesh Forest Act, 1967 and Andhra Pradesh Saw Mill Regulations Rules, 1969 specifically held that:

9. From a reading of the aforesaid provision, it emerges that once the offence is compounded and the compounding amount is paid, no further proceedings can be taken against the person or his property. The offence gets obliterated and no further action can emanate thereafter on the same allegation.

10. Identical issue fell for consideration before a learned Division Bench of this Court in ***Divisional Forest Officer vs. Lachi Reddy***.

11. In that case, the petitioner was a Forest Contractor. He was accused of illicitly felling the trees. The offence was compounded levying fine for the said offence. His contract was also cancelled notwithstanding the payment of compounding fee. Taking defence under Section 59 of the A.P. Forest Act, it was urged that the contract was not liable for cancellation after compounding the offence. In that context, it was held as follows:

“Further, we agree with the construction laid by Jeevan Reddy, J, on Section 59(2)(iii). It is a well established proposition that confiscatory provision like Section 59 should be given beneficial construction where that is permissible. As the learned Judge pointed out, the object behind Section 59(2)(iii) appears to be that the order of composition effaces the offence and the same set of facts shall not give rise to any other or further action either against the person or property of the party compounding the offence. If the offence is a serious or a grave one, the authorities need not compound it and they can take action under Rule 30 of the Forest Rules and further prosecute the offending person in a court of law; but once compounding has been done and compensation has been accepted under Section 59, it would not be open to the department to proceed against him under Rule 30. That intention the legislature is manifest from the special provision in clause (iii) of Section 59(2), that no further proceeding shall be taken against the accused person or his property. Since this is a peculiar provision contained in the Andhra Pradesh Forest Act, providing for receiving the compensation for forest offence, it must be given its due weight. We are therefore of the opinion that cancellation of the contract is contrary to the provisions contained in Section 59(2) since the offence had already been compounded by accepting the appropriate

compensation. For these two reasons, we uphold the decision of Jeevan Reddy, J. and dismiss the writ appeal.

13. In the above case, this Court specifically held that after compounding the offence, cancellation of license is not permissible under law. The above judgment is squarely applicable to the facts and circumstances of the present case. In the instant case also respondent No.4 compounded the offence and passed the order on 08.01.2021 imposing fine of an amount of Rs.65,166/- and thereafter issued notices on 13.06.2021 and 29.06.2021 directing the petitioner to pay the said amount. Pursuant to the same petitioner paid the amount on 07.07.2021. Even after payment of penalty, the respondent without renewing the license, issued the impugned order revoking license of the petitioner on the very same offences and the same is contrary to law declared by this Court as mentioned supra.

14. Accordingly, the impugned proceedings issued by the respondent No.4 dated 20.11.2021 is set aside and the

writ petition is allowed. The respondents are directed to consider the applications of the petitioner for renewal of license as per the procedure within a period of one (1) month from the date of receipt of the copy of the order.

15. Accordingly, the writ petition is allowed. No costs.

As a sequel thereto, miscellaneous applications, if any, pending in this writ petition shall stand closed.

JUSTICE J SREENIVAS RAO

28th February, 2023

Note: Registry is directed to issue CC within a period of one week.

L.R. Copy to be marked : **'Yes'**.

BO.
PSW

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HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.2626 of 2022

28th February, 2023

Note

L.R. Copy to be marked : **'Yes'**.

BO.
PSW