

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,
BHOPAL**

**Original Application No. 133/2015 (CZ) (THC)
Jagdish Prasad Yadav vs. State of Rajasthan & 8 Ors.**

M.A. No. 761/2016

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE Dr. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

**PRESENT : Applicant: None
State of Rajasthan : Shri Sandeep Singh, Adv.
Shri Guljari Lal, ACF**

Date and Remarks	Order of the Tribunal
Order No.6 29th August, 2016.	<p>In pursuance in our order of 14.07.2016 a compliance report has been filed by the State wherein, firstly, it has been stated that the Revenue Department as well as the Revenue Board have now issued instructions for carrying out the census of trees in the revenue land and the entries to that effect shall be made in the Revenue records that are the Jamabandi as well as the Khasras with regard to the number of trees that are available on the land of the particular Khatidars.</p> <p>In compliance of our direction with regard to the assessment of the loss caused by taking into account the market value of the timber prevailing at the relevant date a revised estimation has been made and fresh notices for the revision are being issued by the Forest Department in place of the original notices that were issued based on the provisional assessment in July 2016.</p> <p>The said compliance report is ordered to be taken on record.</p> <p>Learned Counsel Shri Rohit Sharma appearing on behalf of some of the owners of the saw mills has submitted an M.A. No. 761/2016 for taking objections to our order dated 11.05.2016 by which directions was issued to the State Government for assessing the amount to be recovered from the unlicensed <i>saw mills</i> unit.</p> <p>We have considered the aforesaid miscellaneous application and the objections.</p>

Primarily, objection raised by the Applicant is that the persons who have been served with the notices based on the provisional assessment and demand note are traditionally belonging to a particular community engaged in the aforesaid work and are carrying out the aforesaid trade since their ancestor's time and even promoting to some extent the business of handicrafts. A perusal of Annexure R/ 1/ C submitted along with the compliance report filed today by the State reveals that the majority of such applicants who have filed their objections before us by way of M.A. No. 761/2016 have already got cases registered against them under various FIRs. And in some cases one more than FIRs have been registered against them which showed that they are habitual of the such activities.

We have considered the aforesaid objections. Our first and foremost direction given in our order dated 11.05.2016 is in respect of unlicensed *saw mills* units. The very fact that these demand notices have been issued by the Forest Department and other officials of the State Government to the unlicensed units obviously indicate that such activity was being carried out in an unauthorised and illegal manner. In that view of the matter the question of any equity in their favour in our view does not arise. Merely having submitting applications for the grant of licenses is not sufficient. Till such time as permissions or even provisional permissions are not granted and persons concerned has no right to carry out the aforesaid activity for trade. It is admitted that Hon'ble Supreme Court has already directed and given detailed instructions since 2002 in this behalf for regulating the aforesaid activity. In that view of the matter the Applicants in our view merely on the ground that they were pursuing their traditional ancestor's business would not be of any consequences as being mitigating circumstances.

The next point is that the applicants have not been afforded proper opportunity of being heard as directed in our order dated

11.05.2016 and so far as this is concerned the Learned Counsel for the State has submitted that while issuing notices and the demand notes on 25.07.2016 detailed hearing was given by the District Collector and the Forest officials. And in terms of the order dated 14.07.2016 since the estimates have been revised as given in the compliance report by way of Annexure R/ 1 / C the concerned persons are at liberty to approach the concerned officers and make their submissions in this behalf. It is submitted that their objections if any shall be considered in the light of the submissions made in the objections, before applications are decided.

We have in our order dated 11.05.2016 already laid down the criteria for determining the amount and based upon the same if the applicants are in a position to show that the amount is excessive are they would be at liberty to move the Tribunal for revision.

Lastly, it was submitted by the Applicant that the machines using the saw of 24" diameter as such they could not have been used for the purposes of cutting of the logs. We have given a detailed consideration to the same. We have in our order of 11.05.2016 passed the same direction for the unauthorised trade by these unlicensed saw mills. And based upon the calculation as contained in our order of 11.05.2016 with regard to the volume of work undertaken on an average by such units the value for the penalty had been ordered to be assessed. It is not merely on the basis of the number of trees cut based upon the volume of trade under taken by the particular person running the unauthorised saw mill but also because of the fact they have abetted in illegal destruction of trees.. Our view, therefore, is that none of the objections raised by the Applicant have any merit in this case. M.A. No. 761/2016 filed on behalf of the various saw mills is accordingly disposed of.

In that view of the matter no further directions are required to be issued in the matter. The issues that were raised in the Application

have been addressed to the orders passed by this Tribunal from time to time in this case and we finally direct that the amount realised from the defaulting units be kept separately to be utilised by the forest department for compensatory afforestation purposes.

The progress made in this behalf shall be reported to this Tribunal **3rd November, 2016. The Original Application stands disposed of.**

.....JM
(DALIP SINGH)

.....EM
(Dr. S.S.GARBYAL)

