

Stereo.HCJDA 38.  
**Judgment Sheet**  
**IN THE LAHORE HIGH COURT, LAHORE.**

**JUDICIAL DEPARTMENT**

....

**Writ Petition No.34094 of 2021.**

Muhammad Arshad & 28 others.

**Versus**

Province of the Punjab & 02 others.

**J U D G M E N T.**

Date of hearing: **28.10.2024.**

Petitioners by: Ch. Muhammad Anwar Bhaur,  
Advocate.

Respondents by: Ch. Awais Ahmad Qazi, Addl.  
Advocate General Punjab with Agha  
Hussain Shah, District Forest Officer,  
Kasur.

**AHMAD NADEEM ARSHAD, J.** Through this constitutional petition filed under Article 199 of the *Constitution of Islamic Republic of Pakistan, 1973*, the petitioners have assailed the vires of notices dated 20.02.2021 issued by respondent No.3 whereby petitioners were informed that according to amended Section 26 (1)(Q) of Forest Act, 1927 (Amended 2010) (hereinafter referred to as the Act) business with regard to establishment of Sawmills, firewood depots, wooden craft and furniture shops within the radius of 05 Miles (08 Kilometer) is prohibited, against the law and in case of violation six months imprisonment or fine or both sentences can be awarded and directed them to remove their business-places away from 05 miles/08 Kilometers radius of the forest otherwise penal action would be taken.

2. The petitioners maintained in their petition that they are carrying on business by establishing sawmills, firewood depots, wooden craft and furniture shops. In the year 2013, they were served similar type of notices by the respondent No.3 under Section 26(1)(Q)

of the Act, 1927 for removal of their installations, carrying on business of sawmills, firewood depots, wooden craft and furniture shops outside the radius of 05 miles of the forest because it was a consistent threat to the forest. After some negotiation and deliberation, a regulatory mechanism was settled/agreed vide minutes dated 07.01.2013. In the light of said minutes of meeting, the petitioners get registration by submitting applications along with copy of computerized national identity card and deposit of Rs.10,000/- in the treasury. They further narrated that keeping in view the minutes of meeting dated 07.01.2013, a notification was also issued on 18.03.2013. Despite the fact that the petitioners got the registration and abiding by all terms and conditions, respondent No.3 again issued the impugned notices dated 20.02.2021 which are against facts and law and may be declared illegal, unlawful, void, malafide and unconstitutional and the same may graciously be struck down to meet the ends of justice.

3. Report and para-wise comments were called from respondents which were accordingly submitted on 02.07.2021 wherein it was maintained that as per clause No.1 of the said minutes of meeting dated 07.01.2013 no firewood depots shall be allowed to be established within 05 miles radius of the forest; that as per clause No.2, no new sawmill shall be allowed within 05 Miles radius of the forest; that as per clause No.3, the owners of the existing sawmills shall get registration in the office of the Divisional Forest Officer within a period of 60 days; that as per condition No.12 of the agreement signed by the owner of the sawmill, the registration was for one year and on first day of January of every year, the owner will get his registration renewed by depositing the fee amounting to Rs.1000/-, otherwise his registration will be considered as cancelled; that 48 owners of sawmills got registration during the year 2013; that none of the said 48 owners got their registration renewed after 2013; that during the year 2021, a fresh survey of sawmills, timbers/firewood depots and furniture manufacturing shops was conducted which indicates that 281 units are working within five

miles radius of the forest; that said installations are in violation of the clause No.1 & 2 of the minutes of the meeting dated 07.01.2013 duly agreed by the owners of the sawmills; that the petitioners failed to fulfill the conditions and installed the sawmills within prohibited zone; that the notices were issued in accordance with Section 26(1)(Q) of the Act and prayed for dismissal of the petition.

4. I have heard learned counsel for the parties at length and perused the record with their able assistance.

5. It evinces from the record that on 07.01.2013 a meeting was convened. Perusal of the minutes of the meeting reflects that after detailed deliberations following regulatory mechanism was agreed:-

1. *No firewood depot shall be allowed to establish within 5 mile radius of the forest.*
2. *No new sawmill shall be allowed to establish within 5 mile radius of the forest.*
3. *The owner of an existing sawmill shall get registration in the office of Divisional Forest Officer in whose jurisdiction the sawmill is situated, by submitting an application, a copy of computerized national identity card and proof of deposit of ten thousand rupees in the treasury as security in the name of DFO (refundable on closure of sawmill) within a period of sixty days.*
4. *No person shall be allowed to operate a sawmill unless it has been registered in accordance with the forest department rules and upon signing the agreement with the Divisional Forest Officer in whose jurisdiction it falls.*
5. *Only the small sized sawmills (upto 2 ¼ feet) being used for sawing of wood only for making of the articles of furniture and joinery for local use shall be allowed to operate and no commercial sawing shall be allowed, and violation thereof shall be liable to forfeiture besides any other punishment under the Act.*
6. *No sawmill or a machinery for making articles of furniture and joinery, establishment under the Forest Act or the rules shall operate after the sunset and violation thereof shall be liable to forfeiture besides any other punishment under the Act.*
7. *No owner of an existing sawmill shall be allowed to establish and operate a firewood depot at the sawmill site and violation thereof shall be liable to forfeiture besides any other punishment under the Act.*
8. *Every person registering a sawmill shall observe all rules which may from time to time be notified under the Forest Act 1927 (XVI of 1927), and shall maintain in respect of such depot, sawpit, sawmill, charcoal kiln such details in regard to*

*the source from which timber or firewood or charcoal is obtained.*

9. *Registers:- The owner or person incharge of a sawmill shall maintain the following registers:*
  - a. *Register of receipt of timber, firewood or charcoal showing:*
    - i. *Permit No. and date of receipt;*
    - ii. *Name and address of person/agency from whom received;*
    - iii. *Species; and*
    - iv. *Quantity (Cft. of timber)*
  - b. *Register of sale of timber, firewood or charcoal showing:*
    - i. *Date of sale;*
    - ii. *Name and address of person to whom sold;*
    - iii. *Species; and*
    - iv. *Quantity (Cft. of sawn wood or quantity of finished goods like articles of furniture and joinery)-WAPDA bills shall be made basis of the assessment.*
10. *Every owner or person of sawmill shall provide the registers, prescribed above for security when called upon to do so by the Forest Officer.*
11. *A forest Officer especially empowered by the Government under the Forest Act may, after getting warrant from a magistrate, arrest any person and may seize the timber, firewood and sawmill in respect of which the offence vis-à-vis theft of forest produce directly or indirectly and or use of theft wood belonging to the forest, has been committed.*
12. *The Forest Officer shall issue notices to the owners of the sale depots, sawpits, sawmills and Charcoal kilns which he believes that exist within five miles radius of the forest areas and the owners in question are liable to remove the same, unless registered and operated under the Act or the rules framed there under.*

Thereafter, the Establishment of Sawpits, Sawmill, Charcoal Kiln, Timber or Firewood Depot Rules, 2013, were promulgated through notification dated 18.03.2013 wherein the registration was declared to be mandatory and certain registers were also directed to be prepared. Rules 3 to 6 of the Rules *ibid* are reproduced as under:

**3. Mandatory Registration:-** (1) *A person shall not establish or maintain a depot, sawpit, sawmill and charcoal kiln within 5 miles (eight kilometers) from the boundary of forest unless it has been registered under these rules.*

(2) *Any person wishing to establish or maintain a depot, sawpit, sawmill and charcoal kiln shall register the same by submitting an application, a copy of the computerized national identity card and proof of deposit of fifty thousand rupees in*

*the treasury as security, in the office of the Forest Division in which the depot, sawpit, sawmill and charcoal kiln be situated.*

*(3) A person registering a depot, sawpit, sawmill and charcoal kiln shall maintain such details in regard to the source from which timber or firewood or charcoal is obtained.*

*(4) The owner of an existing depot, sawpit, sawmill or charcoal kiln shall get registration under these rules within a period of sixty days from the date of commencement of these rules.*

**4. Refusal to register and security:-** *(1) The Divisional Forest Officer may for reasons to be recorded in writing, refuse to register any depot, sawpit, sawmill and charcoal kiln.*

*(2) The Divisional Forest Officer, in granting an application for registration under these rules, shall demand security of fifty thousand rupees from the applicant to ensure that timber, firewood or charcoal is not brought from reserved, protected, un-classed forests, wasteland or a rangeland forest except in accordance with law.*

*(3) The Divisional Forest Officer may forfeit this security in whole or in part for breach of any condition of registration.*

**5. Prohibition:-** *(1) The Divisional Forest Officer shall not allow or register a depot, sawpit, sawmill and charcoal kiln within five miles (eight kilometer) radius from boundary of a reserved, protected or un-classed wasteland or a rangeland forest and cutting, conversion, altering and concealing of timber or firewood shall be strictly prohibited in the area.*

*(2) The Divisional Forest Officer may, for reasons to be recorded in writing, except any depot from the operation of this rule especially in case of linear plantations.*

**6. Registers:-** *(1) The owner or person Incharge of a depot, sawpit, sawmill and charcoal kiln shall maintain the following registers.*

*a. Register of receipt of timber, firewood or charcoal showing:*

- i. Permit No. and date of receipt;*
- ii. Name and address of person/agency from whom received;*
- iii. Species; and*
- iv. Quantity (Cft. of timber)*

*b. Register of sale of timber, firewood or charcoal showing:*

- i. Date of sale;*
- ii. Name and address of person to whom sold;*
- iii. Species; and*
- iv. Quantity of sawn wood, firewood or charcoal or quantity of finished goods like articles of furniture and joinery.*

*(2) The Divisional Forest Officer may register a Small sized sawmill (upto one foot) for making articles of furniture and joinery.*

*(3) An owner or person Incharge of a small sized sawmill registered under sub-rule (2) shall not establish firewood depot at the site of sawmill.*

*(4) The owner or person Incharge of a sawmill, timber or firewood depot or a charcoal kiln or a machinery for making articles of furniture and joinery, shall not operate sawmill, depot, charcoal kiln or the machinery after the sunset and before the sunrise.*

*(5) Every owner or person Incharge of a depot, sawpit, sawmill and charcoal kiln shall provide the registers, prescribed under sub-rule (1) to a Forest Officer whenever the Forest Officer wants to scrutinize the registers.*

6. Section 26 of the Act was substituted through the Forest (Amendment) Act, 2010 (Act XVII of 2010) dated 21.10.2010 wherein offences relating to reserved forests and their punishments were introduced. Section 26(1)(Q)(2) of the Act provides as under:

*"Offences relating to reserved forests:- (1) A person, who in a reserved forest-*

*(q) installs a saw mill, charcoal kiln or establishes timber or firewood depot or operates any mechanical aid designed to cut, fashion or covert a tree or timber or fabricates wood into articles of furniture, building materials, joinery articles of domestic or commercial use in or within five mile radius of the forest;*

*Shall be punished in accordance with the provisions of this section,*

*(2) If a person contravenes any provision of sub-section (1), the person shall be liable to punishment of imprisonment for a term which may extend to six months or fine mentioned in sub-section (3) or to both.*

7. Afore-mentioned stipulations as well as Rules reflect that it was mandatory for the proprietor of the sawmills to get registration of their business establishment from the Forest Department and also maintain different registers (*referred supra*). Although, the petitioners have claimed that they are running the business after fulfilling all the formalities but none of the petitioners have annexed any proof with this petition which may suggest that they ever got registration from the Forest Department. Moreover, no document has been brought on record to establish that requisite registers have been maintained by them. Even they failed to establish on record that they are not doing

their business within the five miles (eight kilometers) radius of the forest. In absence of such details, the petitioners are not justified to challenge the impugned notices.

8. On the other hand, respondent-Department has submitted that the owners of the sawmills have neither fulfilled the clauses of the minutes of meeting dated 07.01.2013 nor have following the conditions of agreement duly signed by them in the year 2013. It is further mentioned that in the year 2013 only 48 installations were working in the area but now after mushroom growth said number has reached to 281 which is illegal and against the law.

9. Above discussion reflects that the petitioners claimed that they are doing business after observing all codal formalities and respondent-Department is negating their stance. This Court, while sitting in writ jurisdiction, cannot delve into factual depth to resolve the whole dispute in a slipshod manner. The questions which involve factual controversies cannot be resolved by this Court through the present summary procedure under Article 199 of the Constitution..

10. The primary purpose for relocating sawmills and related operations away from forests is to protect natural ecosystems. When sawmills operate near forests, they often contribute to overexploitation, leading to deforestation and loss of biodiversity. Relocating these industries can foster a culture of responsible sourcing, promoting practices that prioritize forest regeneration and conservation. Industrial activities, such as those carried out in sawmills, can generate significant pollution in the form of noise, dust, and waste. The proximity of these operations to forested areas poses a risk to the surrounding environment, affecting air quality and water sources.

11. The rationale behind shifting sawmills, firewood godowns, and furniture showrooms away from forests is multifaceted, encompassing environmental, economic, and social dimensions. This transition not only protects fragile ecosystems and promotes sustainable resource management but also contributes to cleaner urban environments and improved community relations. As the

world grapples with the challenges of climate change and biodiversity loss, embracing such strategies will be essential for achieving a sustainable future that balances industrial needs with ecological preservation. By prioritizing the health of forests and communities, the way can be paved for a more harmonious coexistence between industry and nature.

12. In the present era of global warming, there is a need to work rigorously to protect the forests. Forests are often referred to as the lungs of the Earth. They play a crucial role in mitigating climate change and combating global warming through several interconnected processes. From carbon sequestration to biodiversity preservation, forests are essential in our efforts to create a sustainable future.

13. In view of the above, respondents have rightly issued notices to the petitioners to shift their sawmills etc. away from the 05 miles (08 kilometers) radius of the forest boundary. Learned counsel appearing on behalf of the petitioners remained unable to make out a case of interference.

14. As a corollary of above discussion, this petition is dismissed being devoid of any force/substance.

**(AHMAD NADEEM ARSHAD)**  
**JUDGE.**

Approved for reporting.

**JUDGE.**

*M. Arsalan\**