

GAHC010247802014



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5277/2014

NIPUL DAS and ANR
S/O LT. LAXMI DAS @ KAMAKHYA DAS R/O KAMAKHYA GATE, P.S.
JALUKBARI, GUWAHATI- 781009, DIST. KAMRUP M, ASSAM.

2: BIPASHA GHOSH
D/O LT. BIRENDRA GHOSH R/O BINOBHA NAGAR
KAHILIPARA
GUWAHATI
DIST. KAMRUP METRO
ASSAM

VERSUS

THE UNION OF INDIA and 5 ORS
REP. BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,
GUWAHATI- 781011.

2:THE DIVISIONAL RAILWAY
MANAGER
COMMERCIAL
N.F. RAILWAY
LUMDING.

3:THE SENIOR DIVISIONAL COMMERCIAL
MANAGER N.F. RAILWAY
LUMDING.

4:THE CHIEF COMMERCIAL MANAGER

N.F. RAILWAY
MALIGAON
GUWAHATI.

5:THE SECTIONAL COMMERCIAL INSPECTOR

N.F. RAILWAY
LUMDING.

6:THE STATION SUPERINTENDENT

N.F. RAILAY
MALIGAON
GUWAHATI

For the Petitioner(s) : Mr. A. K. Sarma, Advocate

For the Respondent(s) : Mrs. U. Chakraborty, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 22.09.2023

1. The instant writ petition has been filed by the Petitioners seeking a direction that the Respondent Authorities should not evict the Petitioners from their respective PCO Booths from where they were functioning.

2. The claim of the Petitioners are based on clause 8.7 of the Policy on Allotment of Booths having STD/ISD/Local Call/FAX, Internet Facility, 2002. The said Clause 8.7 being relevant for the purpose of the instant dispute is reproduced hereinunder:

“8.7 The period of contract would be for a period of five years. This would be extended for another five years, by the competent authority on recommendations of Divisional Commercial Manager/Senior Divisional Commercial Manager with finance concurrence provided the performance of the booth operator is satisfactory and full license fee is regularly deposited during the tenure. License will be for a maximum period of 10 years only including extension period and no further extension shall be

permitted. Railways should take timely action to call fresh bids well in advance (preferably six months in advance) and not renew any of the contracts after the expiry of contractual period of 10 years including extension."

3. From a perusal of the above quoted Clause, it would show that the period of the contract would be for a period of 5 years. It was further provided that an extension may be granted for another 5 years by the competent authority on recommendations being made by the Divisional Commercial Manager/Senior Divisional Commercial Manager with the finance concurrence provided the performance of the booth operator is satisfactory and full license fee is regularly deposited during the tenure. The said Clause further categorically stipulates that the license will be for a maximum period of 10 years only including the extension period and no further extension shall be permitted.

4. In the backdrop of the above and coming to the facts involved herein, it would be seen that the instant writ petition was filed by the Petitioners at the time when the Petitioners had completed 5 years and with an apprehension that the Petitioners would be evicted from the PCO booths in respect of which the Petitioners were issued licences. It is further seen from the records that in respect to the Petitioner No.1, the period of the initial 5 years expired in the year 2010 and in respect to the Petitioner No.2, the period had expired in the year 2013. Thereafter, the Petitioners on the basis of an interim order passed by this Court dated 15.10.2014 have been running the said PCOs. The period of the extended 5 years in respect to the Petitioner No.1 stood completed in the year 2015 and in respect to the Petitioner No.2, it was completed in the year 2018. Under such circumstances, it is the opinion of this Court that the Petitioners therefore cannot have any right for further extension in view of Clause 8.7

quoted hereinabove.

5. Accordingly, no relief can be granted to the Petitioners in the present writ petition.

6. The interim order passed on 15.10.2014 also stands vacated.

7. Be that as it may, the Petitioners herein shall be entitled to apply for the PCOs in the Guwahati Railway Station and the Respondent Authorities shall on the basis of the extant laws consider the case of the Petitioners along with other similarly situated persons.

JUDGE

Comparing Assistant