

Court No. - 40

Case :- WRIT - C No. - 29186 of 2023

Petitioner :- Gauri Shankar Dubey And 17 Others

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Rajesh Kumar Dubey, Manoj Kumar Maurya

Counsel for Respondent :- A.S.G.I., Vivek Kumar Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Shri Rajesh Kumar Dubey, learned counsel for the petitioner; Shri S.P. Singh, learned Additional Solicitor General of India assisted by Shri Vivek Kumar Singh, learned Standing Counsel for the Union of India.

2. Petitioners are running shops at railway stations situated in District Deoria. Admittedly their license had already expired. The petitioners are aggrieved with the notices asking them to vacate the shops and they are also challenging the policy of Management of Railway Land dated 04.10.2022 issued by the Executive Director/Land and Amenities Railway Board, New Delhi as well as notice dated 01.08.2023 issued by Assistant Divisional Engineer/North-Eastern Railway, Gorakhpur, whereby, auction proceeding has been initiated against petitioners' shopping plots.

3. The said claim is resisted by Shri S.P. Singh, learned Additional Solicitor General of India on the ground that even the policy itself provides for existing shops on railway land where license has expired or not yet renewed. It provides that these shops will be auctioned for grant of license at reserve price of 10% market value of land per annum, provided land is not required for railways' own infrastructural and development need. It also provides that the existing licensee/owner will have the right of first refusal and the rent shall be increased 6% per year. Even the license will be given for maximum tenure of 5 years.

4. Shri S.P. Singh, learned Additional Solicitor General of India further states that the said scheme itself is a welfare scheme, wherein, the first right is given to the licensee. Even the previous license was accorded for a fixed term and at this stage, it cannot be insisted that the said scheme is in violation of the norms, which is

adhered by the Railway Board. He has also placed the instructions dated 22.11.2023 and submits that as per existing policy, the first right is always in favour of licensee, subject to bid rate in the auction proceeding.

5. Considering the facts and circumstances of the case, as it is always open for the petitioners to participate in the auction proceeding, wherein, the first right is admittedly in favour of licensee, we do not find any illegality in the proceeding so adhered by the Railway Department, which warrant interference under Article 226 of the Constitution of India. Needless to say that in case the petitioners participate in the auction proceeding, definitely their claim would be considered in the light of existing policy/rules.

6. With these observations, the writ petition is ***disposed of***.

Order Date :- 1.12.2023

A. Pandey