

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18218 of 2010

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Amit Kumar son of Nageshwar Prasad Singh, resident of Malaypur, Police Station
Malaypur, District-Jamui

.... Petitioner/s

Versus

1. The Union of India through General Manager, East Central Railway Hajipur, at
Vaishali
2. The Divisional Railway Manager, Danapur Division, Danapur, District-Patna
3. The Senior Divisional Commercial Manager, Danapur Division, Danapur,
District-Patna
4. Suman Kumar Singh son of Balnand Singh, resident of Malaypur, P.S. Malaypur,
District-Jamui
5. Kumar Gauri Shankar son of Ganesh Yadav, resident of Sahjana, P.S. Jhajha,
District-Jamui
6. Rakesh Kumar Singh son of Kishori Singh, resident of Malaypur, P.S. Malaypur,
District-Jamui
7. Ganesh Singh son of Shankar Singh, resident of Chihotia, P.S. Kahira, District-J
Jamui
8. Samrendra Kumar Singh son of Satish Prasad Singh, resident of Malaypur, P.S.
Malayapur, District-Jamui
9. Brajesh Kumar Singh son of Nageshwar Singh resident of Malaypur, P.S.
Malaypur, District-Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate.

For the Respondent/s : Mr. Ashok Kumar Keshri, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date: 01-10-2015

The present petition has been filed for quashing the
letter dated 25.10.2010 issued by the Senior Divisional Commercial
Manager, Danapur (Respondent No. 3) by which Senior Divisional
Manager has invited the private respondent for opening his tender
(rate part).

2. At the very outset, learned counsel for the
respondent Railways submits that the writ petition is not maintainable

and in any event, the same has now become infructuous, mainly for the following reasons-

(a) The writ petitioner has prayed only for quashing the letter dated 25.10.2010 which is simply a letter issued to the respondent no. 8 that his technical offer had been found suitable and that the financial offer would be opened on 04.11.2010. Even if the said prayer, for arguments sake be allowed, no positive direction whatsoever has been prayed for by the petitioner.

(b) The notice inviting tender published on 07.05.2010 was for grant of license in respect of parking stand in the Jamui Railway Station premises only for a period of three years which has now already expired.

(c) Pending the writ petition, a fresh tender notice was published on 03.09.2013 clearly stating that any contract awarded thereunder was liable to short termination depending upon the judgment/order of this Court in the present writ petition, without any right to the licensee for continuance or compensation. On completion of the tender process, the contract was awarded to respondent no. 5 for a period of three years who started work from 04.03.2014 after deposit of the requisite license fee. The petitioner has neither challenged the tender notice dated 03.09.2013 nor claimed any relief by way

of cancellation of the award of contract in favour of the respondent no. 5.

(d) While several facts have been brought on record by way of three counter affidavits filed on behalf of the respondent Railways, no rejoinder thereto has been filed and thus the stand of the Railways to the above effect must be taken as admitted by the petitioner.

3. Learned counsel for the petitioner, on the other hand, submits that the writ petition is maintainable and invites attention to the order of this Court dated 04.11.2010 by which notices were directed to be issued to the private respondent nos. 4 to 9 and interim orders were also issued against opening of the financial bid. It is stated that a contempt petition has been filed as the respondent-Railways had circumvented the interim orders by issuing a fresh tender notice dated 03.09.2013.

4. Without entering into the merits of the matter or expressing any opinion with regard to issuance of the fresh tender notice pending decision in the present Writ Petition, this Court finds substance in the submissions on behalf of the respondent Railways. The petitioner has not sought for any positive relief save and except the quashing of the letter dated 25.10.2010, and even if such prayer be allowed, the same shall not entitle the petitioner to any positive relief. If the respondent-Railways have violated the interim order of this

Court dated 04.11.2010 by issuing a fresh tender notice dated 03.09.2013, it is the petitioner's own stand that the same is the subject matter of a contempt petition already pending before this Court. As far as the present case is concerned, no relief can be granted to the petitioner beyond what has been prayed for in the writ petition. It is also not in dispute that the subsequent tender notice dated 03.09.2013 as well as the award of contract to the respondent no. 5 have not been challenged by the petitioner. It is made clear that this Court is not considering the merits of the matter and hence not advertent to the counter affidavits filed on behalf of the respondent Railways or the rejoinder thereto filed by the petitioner.

5. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/-

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