

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14408 of 2013

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Nagendra Kumar, Son of Shankar Rai, resident of village Agarpur, Police Station
Lalganj in the district of Vaishali

... .. Petitioner

Versus

1. The Union Of India, through the Secretary, Ministry of Railway, New Delhi.
2. The Secretary, Ministry of Railway, Union of India, New Delhi.
3. The Divisional Manager, North Central Railway, Allahabad.
4. The Coaching Depot Officer, North Central Railway, Allahabad.
5. The Senior Section Engineer, North Central Railway, Allahabad.
6. The B.E.M.L. Ltd. Bandhana Building, Tals Toy Road, New Delhi through its
Senior Manager.
7. The Senior Manager, B.E.M.L. Ltd., Calcutta, West Bengal

... .. Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar, Advocate
For the Respondents : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 29-11-2018

The present writ petition has been filed for the following
reliefs –

*“(i) For commanding the respondents to make payment of
dues contractual amount Rs. 7,50,187/- (Rs. Seven Lac Fifty
thousand one hundred eighty seven only) against the work
done by the petitioner in fitment of longitudinal middle
berth in 33 GSCN coaches in North Central Railway,
Allahabad.*

*(ii) Also for any other relief/reliefs for which the petitioner
is found to be entitled in the eye of law.”*

2. Learned counsel for the petitioner submits that despite having
completed the subject work of fitment of longitudinal middle berth in 33
GSCN coaches in terms tender of the respondent-North Central Railway, an
amount of Rs. 7,50,187/- remains outstanding for payment.



3. Learned counsel for the respondent-Railway, on the other hand, resists the writ petition with a preliminary objection against its maintainability. It is submitted that privity of contract was between the petitioner and the tenderer-B.E.M.L. Ltd, the latter having been awarded the tender work of the respondent-Railway. In other words, if at all, the grievance of the petitioner for non-payment of its dues could only have been addressed to the private respondent nos. 6 and 7 and not against the respondent-Railway.

4. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court is of the view that the petitioner is seeking to establish a non-existent right against the respondent-Railway. A bare perusal of paragraph 10 of the writ petition discloses that the petitioner himself accepts that the respondent-Railway has already paid the total contractual amount to B.E.M.L. Limited and it is the B.E.M.L. Limited which has not paid part contractual amount of Rs. 7,50,187/- to the petitioner. Moreover, it is not in dispute that the petitioner has entered into a contract with B.E.M.L. Limited and not with the respondent-Railway. It must therefore be held that the relief sought for is only against the private respondents for which writ petition cannot be maintained as such.

5. The writ petition accordingly stand dismissed.

BT/Chandran

(Vikash Jain, J)

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