

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.1033 of 2018**  
**IN**  
**LPA 1981 of 2015**

- =====
1. Himanshu Kumar Choubey son of Sri Nakul Prasad Choubey, resident of village Salempur, P.S. Amarpur, District Banka
  2. Om Prakash Pandey @ Ratish Kumar Pandey, son of Sri Rajendra Prasad Pandey @ Rajendra Pratap Pandey, resident of village Lalmatia, P.S. Bounsi, District Banka
  3. Ram Prasad Manjhi, son of late Mataroo Manjhi, resident of village Lalmatia, P.S. Bounsi, District Banka
  4. Rajesh Kumar Pandey @ Rajesh Kumar, son of Ugra Mohan Pandey, resident of village Lalmatia, P.S. Bounsi, District Banka
  5. Kundan Kumar Chaturvedi, son of Vijay Bhushan Chaturvedi, resident of village Lalmatia, P.S. Bounsi, District Banka
  6. Jiwan Kumar Prasant, son of Upendra Sharma, resident of village Daliya, P.S. Bounsi, District Banka
  7. Rajesh Kumar Choudhary, son of Chandeshwar Prasad Choudhary @ Mandeshwar Choudhary @ Mandeo Prasad Choudhary, resident of village Phaga, P.S. Bounsi, District Banka .... Petitioners

Versus

1. The Union of India through the Secretary, Department of Railway (Ministry of Railway), Rail Bhawan, New Delhi
  2. Mr. Aswani Lohani, son of not known to the petitioners, the Secretary, Department of Railway, Rail Bhawan, New Delhi
  3. Mr. Harendra Rao, son of not known to the petitioners, the General Manager, Eastern Railway-17, Netajee Subhash Road, Have Street Kolkata, West Bengal
  4. Mr. Sudhir Agarwal, son of not known to the petitioners, the Chief Administrative Officer (Construction), Eastern Railway-14, Strand Road, Kolkata, West Bengal
  5. Mr. Vinit Gupta, son of not known to the petitioners, the Deputy General Manager, Eastern Railway-17, Netajee Subhash Road, Have Street, Kolkata, West Bengal
  6. Mr. Mohit Sinha, son of not known to the petitioners, the Divisional Railway Manager, Eastern Railway, Malda, West Bengal
  7. Mr. Sunil Kumar Mandal, son of Janardan Mandal, the Deputy Chief Engineer, (Construction), Eastern Railway, Bhagalpur, resident of near Bhikhanpur Gumati No.3, Bhagalpur
  8. The State of Bihar
  9. Mr. Kundan Kumar, son of not known to the petitioners, the District Magistrate, Banka
  10. Mr. Aditya Kumar Jha, son of not known to the petitioners, the District Land Acquisition Officer, Banka .... Opp.Parties
- =====

**Appearance :**

For the Petitioner/s : Mr. Y.V.Giri, Sr. Adv.  
Mr. Balram Kapri, Adv.  
For the Respondent/s : Mr. D.K.Sinha, Sr. Adv.  
: Mr. Anil Singh, Adv.

=====

**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**



## ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 11-09-2018

Heard learned Counsel for the parties.

This contempt application arises from an order of this Court passed in L.P.A. No. 1981/2015, whereby while disposing of the intra-Court appeal preferred by the petitioners, a direction was given to the authorities of the Railways to consider the claim of the petitioners for providing employment on account of acquisition of their land for construction of a project at Mandar Hill in terms of the policy decision present in the Railways circular dated 10.11.1989. The claim has been considered and rejected vide order dated 02.01.2018 passed by the Deputy Chief Engineer/Con/Bhagalpur, a copy of which is placed at Annexure 3. This order does not satisfy the petitioners, as according to him, the rejection amounts to contempt and that is why instead of assailing this order in an appropriate proceeding, the petitioners have chosen to file this contempt application, when parties have been heard.

The only argument that is advanced before us in support of this contempt proceeding is that a similar assertion was made by the Railways before the Division Bench at the time of hearing of the appeal which resulted in a remand yet, the authorities have reiterated the same position to reject the claim and which is a contempt.

We have taken note of the stand taken by the Railways in the Letters Patent Appeal, more particularly one present at paragraph



14 in which in reference to the Railways Board's Circular No. 279/1989 it is stated that the claim of the petitioners was examined and since these petitioners did not come in the category of displaced person that employment was denied. It is further mentioned that no appropriate application was submitted within the time prescribed in this regard by petitioner no. 1 Himanshu Kumar Choubey, while others did not even bother to file such application. It is further explained that since only a portion of the land had been acquired by the Railways, while the balance remained with the petitioners that they did not fall in the category of displaced person. The respondents also referred to certain orders of this Court and the Supreme Court and in consideration of which stand that the appeal was disposed of with a direction to the respondents to consider the claim in case it would fall within the parameters of the policy decision dated 10.11.1989 bearing RBE No. 279/1989.

We note from the pleadings in appeal that an issue of discrimination was also raised by these petitioners at paragraph-10 of the appeal. As we have observed, it is taking note of the rival contentions that the order of remand was passed for fresh consideration of the issue.

Annexure-2 is the representation filed by the petitioners in the light of the order of the remand passed by this Bench on the intra-Court appeal and though the petitioners have raised their claim before



the authorities afresh, yet neither they have been able to demonstrate as to how they would fall within the category of displaced person within the meaning of the policy decision nor a single instance of discrimination has been pointed out by them. Obviously in the nature of representation that was filed before the authorities which neither explained the issue of displaced person nor gave any instance of discrimination, it would only result in a reiteration of the position as done vide Annexure-3, which is the order dated 02.01.2018 of the Deputy Chief Engineer, the foundation for the present proceedings.

In our opinion, the present proceeding is an abuse of the process of the Court because if the order passed by the authorities did not satisfy the petitioners, it could have been questioned before an appropriate forum by filing an appropriate application but certainly no issue of contempt is made out.

The contempt application is dismissed.

**(Jyoti Saran, J)**

**(Nilu Agrawal, J)**

Archana/Surendra

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 13.09.2018 |
| Transmission Date | NA         |

