

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7113 of 2020

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M/s Ganga Carriers Services Pvt. Ltd., a company incorporated under the Companies Act, 1956 having its office at 309, Ashiana Towers, Exhibition Road, Patna-800001 through its authorized signatory Ankit Choudhary, male, aged about 34 years, Son of Shri Sanjeev Choudhary, R/o 7th Floor, Kataruka Niwas, South Gandhi Maidan, Patna-800001.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railway, Govt. of India, New Delhi.
2. The General Manager, East Central Railway, Hajipur.
3. The Senior Divisional Commercial Manager, East Central Railway, Danapur, Patna.
4. The Chief Commercial Manager, East Central Railway, Hajipur.
5. The Divisional Railway Manager (Commercial), East Central Railway, Danapur, Patna.
6. The Chief Goods Supervisor, East Central Railway, Danapur, Patna.
7. The Goods Superintendent, East Central Railway, Danapur, Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 7132 of 2020

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M/s Sati Sales Corporation, a proprietorship firm having its place of business at 10A, 1st Floor, Narmada Apartment, P.S. Gandhi Maidan, Exhibition Road, Patna through its Proprietor, namely, Sri Anand Vardhan, male, aged about 50 years, Son of Late Narayan Prasad Dalmia, R/o Flat No. 302, Balajee Residency, New Dak Bungalow Road, Patna-800001.

... .. Petitioner/s

Versus



1. The Union of India through the Secretary, Ministry of Railway, Govt. of India, New Delhi.
2. The General Manager, East Central Railway, Hajipur.
3. The Senior Divisional Commercial Manager, East Central Railway, Danapur, Patna.
4. The Chief Commercial Manager, East Central Railway, Hajipur.
5. The Divisional Railway Manager (Commercial), East Central Railway, Danapur, Patna.
6. The Chief Goods Supervisor, East Central Railway, Danapur, Patna.
7. The Goods Superintendent, East Central Railway, Danapur, Patna.

... .. Respondent/s

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Appearance :

(In both the petitions)

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Adv.

For the Respondent/Railways : Mr. Siddhartha Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 10-07-2020

Heard Mr. Gautam Kumar Kejriwal, learned Advocate for the petitioners in both the writ petitions and Mr. Siddhartha Prasad, learned counsel for the respondent/Railways.

2. In both the petitions, there is a challenge to the demurrage penalty saddled upon the petitioners for a sum of Rs. 4,76,280/- and 5,95,350/- respectively by respondent No. 6/Chief Goods Supervisor, East Central



Railway, Danapur, Patna.

3. The challenge by the petitioners to the aforesaid demurrage penalty is on the ground that they have not been served any notice for the same. Thus, it has been argued that there has been a complete violation of principles of natural justice.

4. Learned counsel for the petitioners has drawn the attention of this Court to some of the decisions of this Court where in the absence of any notice before imposition of demurrage penalty or wharfage cost, the matter has been referred to the Chief Goods Supervisor/concerned respondent for noticing the noticees afresh and then passing an order with respect to imposition of such demurrage penalty or wharfage cost.

5. Though a provision is available to the petitioners to approach the higher authorities for waiver of such penalty, but a referral to the higher authorities would only take time and would unnecessarily result in the matters remaining pending for final decision.

6. Under such circumstances, this Court deems



it appropriate that the orders impugned in both the petitions be quashed and the matter be referred to the concerned respondent, viz., Chief Goods Supervisor, East Central Railway, Danapur, Patna to first notice the petitioners and then, pass an order in accordance with law within a reasonable period of time.

7. This Court passes an order accordingly.

8. The orders impugned in both the petitions are set-aside.

9. The matters are remitted to the concerned respondent, viz., Chief Goods Supervisor, East Central Railway, Danapur, Patna for the petitioners to be noticed on the issue of imposition of demurrage penalty or wharfage cost, whatever the case may be. On the petitioners replying to the aforesaid show-cause notice, a final order shall be passed which shall be communicated to them forthwith.

10. Needless to state that the petitioners, in both the petitions, shall co-operate in the matter and shall not adopt any subterfuge for delaying any order by the Chief Goods Supervisor, East Central Railway, Danapur, Patna.



11. The entire process be completed within a period of ninety (90) days from the date of receipt/production of a copy of this order before the concerned respondent.

12. Both the writ petitions stand disposed off accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

