

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24051 of 2018

=====

Raj Kumar Son of Siya Saran Singh, Resident of vilage-gere, P.S.-Muffasil,
Block-Manpur, District-Gaya

... .. Petitioner/s

Versus

1. The Secretary, Department of Railways
2. The Senior Divisional Commercial Manager, East Central Railway,
Mugalsarai.
3. The Senior Divisional Commercial Manager, East Central Railway,
Mugalsarai.
4. The Chief Accounts officer-cum-Legal Advisor East Central Railway,
Hajipur.
5. The Station Manager, Gaya.
6. The Station Manager, Manpur, Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Singh
For the Respondent/s : Mr.Anil Kumar Sinha

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 14-02-2020 The present writ petition has been filed for directing the respondent authorities to return the auction amount totaling to a sum of Rs. 14,45,500/- with interest as well as award damages against the respondents and in favor of the petitioner herein on account of inaction and apathy on the part of the respondent authorities.

The brief facts of the case are that on 16.09.2017, an advertisement/tender was issued by the respondent Railway authorities under the signature of Senior Divisional Commercial



Manager, East Central Railway, Mughalsarai for removal of unclaimed sand/mixed sand/stone chips (40 mm) and stone chips (10 mm), lying at the second loop, common goods siding at Manpur Railway Station. In pursuance to the said tender, the petitioner and six others had participated in the bid, pursuant to issuance of the said tender, on 16.09.1997, whereafter the petitioner was found to be the highest bidder in the said open bid inasmuch as the petitioner had quoted an amount to the tune of Rs. 12,25,000 + Rs. 2,20,500/- as G.S.T. @ 18 per cent, totaling to a sum of Rs. 14,45,500/-. Consequently, the petitioner had deposited a sum of Rs. 14,45,500/- vide MRS dated 16.09.2017 and 18.09.2017 and then the work order was issued on 19.09.2017 in favor of the petitioner by the Senior Divisional Commercial Manager, East Central Railway, Mughalsarai, directing him to pick up the auction material from the above site within a period of 15 days i.e. in between 20.09.2017 and 04.10.2017, under the supervision of the Station Manager, Manpur. Thereafter, the petitioner is stated to have started the work of removal of the aforesaid materials, as per the terms and conditions laid down under the work order, however, the police force of the Mufassil Police Station had arrived on the spot and the S.H.O. of the said police station had asked the petitioner to show the letter of permission of the District Mines and Geology Department for the



purposes of removal of the auction goods and then the petitioner was stopped from carrying on with the work of removal of the aforesaid materials. The petitioner had then immediately approached the Station Manager, Manpur by filing a representation dated 21.09.2017, however, to no avail, whereafter, the petitioner has been running from pillar to post for redressal of his grievances. In fact, the petitioner is stated to have also filed a representation before the Senior Divisional Commercial Manager, East Central Railway, Mughalsarai, duly forwarded by the Station Superintendent, E.C. Railway, Manpur on 15.11.2017, which was duly received by the said Senior Divisional Commercial Manager on 20.11.2017 itself, nonetheless, neither the respondent authorities have helped the petitioner in removal of the aforesaid material nor his money has been refunded. The petitioner is stated to have again sent a representation on 07.09.2018, but to no avail.

The learned counsel appearing for the respondent Railway, by referring to the counter affidavit filed in the present case has submitted that after the work order was issued in favor of the petitioner regarding removal of the aforesaid materials in question, it was/is the onus of the petitioner for removal of the same from the station premises and the railway authorities are not responsible for the same inasmuch as possession of the consignment was given to the petitioner on "*as is where is*" basis. It is thus submitted that



on the contrary, on account of the dispute between the petitioner and the state authorities, the Railway is suffering both in terms of wharfage as also the loading/unloading of the consignment at the busy Manpur Station has been effected. It is thus submitted that there is no merit in the present petition and the same is fit to be dismissed.

I have heard the learned counsel for the parties and perused the materials on record including the advertisement in question dated 16.09.2017 and the work order dated 19.09.2017. This Court finds that admittedly the petitioner has deposited a sum of Rs. 14,45,500/- for removing the materials in question, however, on account of interference by the police authorities, the petitioner has not been able to remove the same. Thus, it was incumbent upon the Railway authorities to have clarified the position before the police authorities and ensured unhindered removal of the materials in question by the petitioner herein. The petitioner cannot be faulted in the present case inasmuch as it appears that he has been made a scapegoat in between the wrangles and disputes between the Railway authorities and the police authorities, resulting in him being not able to remove the materials in question especially on account of obstruction by the police authorities and non-cooperation by the Railway authorities, which is apparent from the counter affidavit filed in the present case insofar as not a single



communication has been brought on record to show that the Railway authorities had taken any interest in the matter or had tried to resolve the grievances of the petitioner herein. Moreover, this Court finds that the respondent Railway has also not denied the fact that the materials in question are still lying at the Manpur Station as also it has not been denied that the Police has been obstructing the petitioner from lifting the material in question, hence this Court is of the opinion that it would be equitable and in the interest of justice to direct the respondent Railway authorities to refund the aforesaid amount of Rs. 14,45,500/-. It is directed accordingly.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, the present petition stands allowed with a direction to the respondent Railway authorities to refund the aforesaid sum of Rs. 14,45,500/- within a period of eight weeks of receipt/production of a copy of this order, failing which the same shall carry interest @ of 12% per annum with effect from the date of deposit of the aforesaid amount by the petitioner herein till the date of actual payment.

(Mohit Kumar Shah, J)

S.Sb/-

U			
---	--	--	--

