

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7762 of 2021

Vikhyat Kumar Son of Sanjay Barbariya Resident of Ward No. 3, Hasanpur Bazar, Rampur Rajawa, P.S. Hasanpur, Samastipur through his power of attorney holder namely Deep Chandra Barbariya male aged about 46 years son of Shri Nand Lal Barbariya resident of Ward No. 5, Deepmala, Hasanpur Bazar, Rampur Razawa, Hasanpur Sugar Mill, P.S. - Hasanpur, Samastipur.

... .. Petitioner/s

Versus

1. The Union of India Through the Chairman, Railway Board, Ministry of Railways, New Delhi
2. The Director Land and Amenities, Railway Board, Ministry of Railways, New Delhi
3. The General Manager, East Central Railway, Zonal Office Hazipur, Vaishali.
4. The Divisional Railway Manager, East Central Railway, Samastipur Division, Samastipur
5. The Assistant Divisional Engineer, East Central Railway, Samastipur
6. The Senior Section Engineer, (Works) Line, Eastern Central Railway, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate
	:	Mr. Alok Kr. Jha, Advocate
	:	Mr. Mukund Kumar, Advocate
For the Respondent/s	:	Mr.Dr.K.N.Singh (Asg)
For Railways	:	Mr. Bijoy Kr. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

2 23-12-2021 Heard the learned counsel for the petitioner, the learned counsel for the State and Sri Bijoy Kr. Sinha, the learned counsel for the railways.

Similar dispute, which has been raised in the present petition, was admittedly involved in *C.W.J.C. No. 18109 of 2018 (Vijay Sah v. Union of India and others)*, disposed of by an order of



this Court dated 04.11.2019 in following terms, which reads as under :-

“ Heard learned counsel for the petitioner and the Railways.

A counter affidavit has been filed on behalf of respondents-Railways. Learned counsel for the petitioner submits that he is not required to file any rejoinder thereto and the matter may be heard and disposed off on the basis of materials available on the record. After hearing learned counsel for the petitioner and learned counsel for the Railways and upon perusal of the statements made in the counter affidavit, this Court is of the considered opinion that the petitioner has submitted a copy of representation as contained in Annexure '4' to the writ application to the General Manager, East Central Railway, Hajipur, Vaishali who will look into the grievance of the petitioner, shall examine all these issues raised by him and shall take an appropriate decision with an intention to amicably resolve the dispute in terms of the agreement. In case the dispute cannot be resolved amicably, the parties may invoke the relevant provision of the agreement which talks of resolution of dispute through arbitration. In this regard it has been submitted that although in Clause 24, the General Manager, East Central Railway has been named as 'विवाचक' (Arbiter), now in view of the amendment of the Arbitration and Conciliation Act, 1996, he cannot act as Arbitrator. At this stage, this Court would only observe that in case the parties have, in terms of Clause 24, decided to get the matter resolved through arbitral process, it will be open for them to agree on the mode of appointment of the Arbitrator if occasion so arises. Till a decision is taken by the General



Manager, East Central Zone, Hajipur on the representation of the petitioner, no coercive action shall be taken against him to forcibly evict from the premises. The writ application stands disposed off.”

Learned counsel for the petitioner submits that this writ petition may also be disposed of, in terms of the said order ***dated 04.11.2019***, passed in the case of ***Vijay Sah (supra)***. The learned counsel representing the respondents- Railway has got no objection.

Accordingly, the writ petition stands disposed off with the same directions and observations, as has been made in the said order ***dated 04.11.2019 (supra)***. It is further observed that, till a decision is taken by the General Manager, East Central Railway, Zonal Office, Hajipur, Vaishali on the representation of the petitioner, no coercive action shall be taken against him, for forcibly evicting him, from the premises, on the ground of non-payment of the demand based on revised licence fee, if the representation is filed within a period of six weeks from today.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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