

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7040 of 2020

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Rameshvar Ray, Son of Late Kari Ray, Resident of Village- Baragunv Bazar,
Bajpatti, P.S.- Bajpatti, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Railway, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railway, Hajipur, District- Vaishali.
3. The Chief Engineer, East Central Railway, Hajipur, District- Vaishali.
4. The Divisional Rail Manager/ Engineer East Central Railway, Samastipur.
5. The Senior Divisional, Engineer East Central Railway, Samastipur.
6. The Senior Section Engineer (Works), East Central Railway, Darbhanga.
7. The Assistant Divisional Engineering (1st) East Central Railway, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate
For the Respondent/s : Mr. Ramadhar Shekhar (Add.S.C.Railway)
Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-11-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“(i) For appropriate writ/writs, direction/directions, order/orders in the nature of certiorari the quashing the letter no. W/214/shopping dated 09.07.2019 issued under the signature of the Senior Division Engineer (J), East Central Railway,



Darbhanga directing the petitioner to deposit the arrear of revised license fee for shops allotted to him in the premises of Sitamarhi rail to the concerned Senior Section Engineer (Works) Darbhanga within fifteen days from the date of receipt of the letter failing which appropriate action owned by taken against him under railways without any notice or so cause which is against the law as well as on fact and is fit to be set aside.

(ii) For issuance of appropriate order/orders, writ/writs, direction/directions in the nature of mandamus commanding the respondent for staying the operation of letter no. W/214/shopping dated 09.07.2019 issued under the signature of Senior Division Engineer (J), East Central Railway, Darbhanga during the pendency of present writ petition.

(iii) For issuance of appropriate order/orders, writ/writs, direction/directions in the nature of mandamus commanding with a specific direction that the respondent has not been disturbed during the pendency of the present writ petition.

(iv) For any other relief/reliefs for which the petitioner may be found entitled in the facts and circumstances of the case.”

Learned counsel for the petitioner prays that the matters be disposed of in terms of the order dated 04.11.2019 passed by different Benches of this Court in C.W.J.C. No. 18109 of 2018 titled as Vijay Sah Vs. The Union of India & Ors.; order dated 06.11.2020 in CWJC No.8604 of 2020 titled as Bharat Kumar Agarwal @ Bharat Kumar Vs. The Union of India & Ors. and other connected writ petitions; order dated 01.03.2021 in CWJC No.2807 of 2020 titled as Arun Kumar Singh Versus The Union of India and others and other connected writ petitions.

However, we are of the considered view that the matters have to be decided in the light of the judgment rendered by Hon’ble the Apex Court in **Central Organisation for Railway Electrification Versus ECI-**



SPIC-SMO-MCML (JV) a Joint Venture Company, (2020) 14 SCC 712.

Learned counsel for the parties state that they have no objection to the matters being disposed of in terms of the ratio laid down in **Central Organisation for Railway Electrification** (Supra). However, with vehemence, learned counsel for the petitioner states that till such time the arbitrator is appointed, respondent should not take any coercive action against petitioners, including initiating proceedings for eviction and realization of arrears of licence fee.

Well, we have no difficulty in accepting such prayer, more so, when the parties are ad idiom of taking recourse to the Mechanism provided under the agreement, and the matter adjudicated in the light of the principles laid down by the Hon'ble the Apex Court in **Central Organisation for Railway Electrification** (supra).

As such, the writ petitions are disposed of in the following mutually agreeable terms:-

(a) The petitioner shall approach the respondents, invoking the arbitration clause and the respondents shall act in terms of the law down by Hon'ble the Apex Court in **Central Organisation for Railway Electrification** (Supra).

(b) Till such time the arbitrator is appointed, no coercive action shall be taken against the petitioners, either for their eviction or realization of any amount towards arrears of license fee.

(c) With the appointment of the arbitrator, it shall be open for the parties to seek extension of the order during the period of the arbitration proceedings.



(d) The petitioners shall continue to pay the amount in term
of the original agreement (pre existing rate of the license fee).

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/Veena

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

