

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6959 of 2020

1. Sumit Kumar Son of Jai Prakash Prasad, Resident of Village-Bhairoganj Bajar, Police Station-Bhairoganj, District-West Champaran.
2. Brijesh Sah Son of Late Bachcha Sah Resident of Village-Police Station-District-West Champaran.
3. Surendra Prasad Son of Late Ram Raksha Prasad, Resident of Village-Nara Parsauni, Police Station-Bhairoganj, District-West Champaran.
4. Prem Chandra Prasad @ Premchand Sah Son of Ram Prasad Sah Resident of Village-Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
5. Nand Kishor Prasad Son of Late Rajmangal Prasad, Resident of Village-Nara Parsauni, Police Station-Bhairoganj, District-West Champaran.
6. Rama Prasad @ Rama Sah Son of Chhedi Sah Resident of Village-Nadda, Police Station-Bhairoganj, District-West Champaran.
7. Sanjay Kumar Prasad, Son of Late Ramjee Prasad Resident of Village-Nara, Parsauni, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
8. Mankeshwar Singh Son of Basudev Singh, Resident of Village-Kapardhika, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
9. Sainullah @ Moammad Saidullah, Son of Ijhar Mian @ Md. Ijhar, Resident of Village-Bhairoganj, Police Station- Bhairoganj, District-West Champaran.
10. Amar Chaudhry @ Amarnath Chaudhry Son of Sudarshan Chaudhari, Resident of Village-Kapardhika, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
11. Sanjay Kumar, Son of Late Jai Prakash Prasad, Resident of Village-Nara Parsauni, Bhairoganj, Police Station- District-West Champaran.
12. Pramod Singh Son of Late Shivshankar Singh Resident of Village-Nadda, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
13. Manish Kumar Singh Son of Shambhu Singh Resident of Village-Nuniyapatti Basgawn, Majharia, Police Station-District-West Champaran.
14. Shambhu Singh Son of Rambihari Singh Resident of Village-Nuniyapatti, Abasgawn, Majharia, Police Station-District-West Champaran.
15. Ajay Tiwari @ Ajay Mani Tiwari Son of Chandradev Tiwari, Resident of Village-Basgawn, Majharia, Police Station-District-West Champaran.
16. Samshul @ Shekh Samsul, Son of Shekh Gyani, Resident of Village-Nara Parsauni, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
17. Harishchandra Singh Son of Rambihari Singh @ Bihari Singh, Resident of Village-Nuniyapatti, Majharia, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
18. Ramchandra Singh Son of Rambihari Singh @ Bihari Singh Resident of Village-Nuniyapatti, Majharia, Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
19. Vinod Prasad @ Vinod Kumar Son of Parasnath Sah Resident of Village-Nara Parsauni, Bhairoganj, Police Station-Bhairoganj, District-West

Champaran.

20. Lalbabu Ahmad Son of Faud Ahmad, Resident of Village-Sabuni Chowk, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
21. Baby Devi Wife of Vinod Sah Resident of Village-Belagola, Harinagar, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
22. Urmila Devi Wife of Dinanath Prasad @ Dina Sah Resident of Village-ela Gola, Harinagar, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
23. Yogindra Prasad @ Yogendra Sah Son of Radharaman Sah @ Radharaman Prasad Resident of Village-Nadd, Police Station-Bhairoganj, District-West Champaran.
24. Md. Atiullah, Son of Late Md. Izhar, Resident of Village-Dhokraha, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
25. Sajid Karim Son of Hefajat Karim Resident of Village-Near Harinagar Station, Ward No. 20, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
26. Bhupendra Jaiswal Son of Gopichand Jaiswal, Resident of Village-Aranagar, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
27. Dinesh Prasad @ Dinesh Prasad Jaiswal, Son of Late Doma Sah @ Late Doma Prasad Jaiswal, Resident of Village-Bela Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
28. Kanhaiya Keshari Son of Ramchandra Sah Resident of Village-Bela Gola, Post Office-Ramnagar, Police Station-Ramnagar, District-West Champaran.
29. Om Prakash Jaiswal, Son of Late Gopichand Sah Resident of Village-Bela Gola, Post Office-Ramnagar, Police Station-Ramnagar District-West Champaran.
30. Raj Kumar Jaiswal @ Rajkumar Sah Son of Gopichand Sah Resident of Village-Bela Gola, Post Office-Ramnagar, Police Station-Ramnagar District-West Champaran.
31. Achchhelal Son of Balkhandi Sah Resident of Village-Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
32. Dineshwar Prasad Roy Son of Kashi Ray Resident of Village-Belashpur, Post Office-Ramnagar, Police Station-Ramnagar District-West Champaran.
33. Shakil Ahmad Son of Taiyab Khan Resident of Village-Harinagar, Police Station, District-West Champaran.
34. Subhash Prasad @ Subhash Son of Bhirgun Prasad Resident of Village-Police Station-, District-West Champaran.
35. Harinath Prasad Yadav Son of Late Suraj Prasad Yadav Resident of Village-Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
36. Kishor Prasad Nag, Son of Late Kishun Prasad Nag, Resident of Village-Bhairoganj, Police Station-Bhairoganj, District-West Champaran.
37. Madan Mohan Tiwari Son of Radha Raman Tiwari Resident of Village-Bhairoganj, Police Station-Bhairoganj, District-West Champaran.

... .. Petitioner/s

Versus

1. The General Manager East Central Railway, Hajipur, Bihar.
2. The Engineer-in-Chief, East Central Railway, Hajipur, Bihar.
3. The Financial Advisor East Central Railway, Hajipur, Bihar.
4. The Chief Account Officer, East Central Railway, Hajipur, Bihar.
5. The Divisional Manager, East Central Railway, Samastipur Division, Samastipur.
6. The Chief Engineer, East Central Railway, Samastipur Division, Samastipur.
7. The Senior Section Engineer, (Works Division), Narkatiaganj, East Central Railway, Samastipur Division.
8. The Assistant Divisional Engineer, Narkatiaganj, East Central Railway, Samastipur Division.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 2751 of 2020

1. Shambhu Sah alias Shambhu Prasad Son of Vishwanath Sah, resident of Hardiya Chowk, P.O. Narkatiaganj, P.S. Shikarpur, District- West-Champaran.
2. Pravin Kumar Jha, Son of Kamlesh Chandra Jha, resident of village -Pandey Tola, P.O. Narkatiaganj, P.S. Shikarpur, District West- Champaran.
3. Madan Choubey, Son of Late Bashistha Choubey, Resident of Village Pandey Tola, P.O. and P.S. Shikarpur, District- West Champaran.
4. Brajesh Prasad, Son of Late Bidya Bhaskar, Resident of Village and P.O.- Narkatiaganj, P.S. Shikarpur, District- West Champaran.
5. Kishore Kumar Sah, Son of Motilal Sah, Resident of Village Hardiya, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
6. Rajendra Pd. Motor, Son of Ram Kishan Resident of Village Narkatiaganj Pokhra Chowk, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
7. Binay Kumar, Son of Jagdish Tiwary, Resident of Village- Chegauna, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
8. Niyaz Ahmad, Son of Hanif Ahmad, Resident of Narkatiaganj, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
9. Ramji Rao, Son of Ambika Rao, Resident of Village Kathari, P.O. and P.S. Sathi, District- West Champaran.
10. Sakir Sheikh, Son of Sheikh Islam Resident of Village Deoliya, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
11. Tarkeshwar Pd. Chaurasia, Son of, Resident of Village and P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
12. Anand Kumar, Son of Dilip Kumar and grand son of Late Jamuna Ram, Resident of Village and P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.

13. Ved Prakash, Son of Late Vidya Bhaskar, Resident of Village and P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
14. Nagendra Mishra, Son of Dayalu Mishra, Resident of Village Hardiya Chowk, P.O. Narkatiaganj, P.S. Shikarpur, District West - Champaran.
15. Ajay Kumar Dey, Son of Late Subhash Chandra Dey Resident of Village Hardiya Chowk, P.O. Narkatiaganj, P.S. Shikarpur, District West - Champaran.
16. Gopal Yadav, Son of Tapeswar, Resident of Village Hardiya, P.S. Narkatiaganj, P.S. Shikarpur, District West - Champaran.
17. Ram Nath Sah, Son of Shyam Lal Sah, Resident of Village Deolia, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
18. Rajesh Sah, Son of Late Baijnath Sah, Resident of Village Deolia, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.
19. Dillip Kumar, Son of Nagina Prasad, Resident of Village and P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

1. The General Manager, East Central Railway Hajipur, Bihar.
2. The Engineer in Chief, East Central Railway, Hajipur, Bihar.
3. The Financial Advisor, East Central Railway, Hajipur, Bihar.
4. The Chief Account Officer, East Central Railway, Hajipur, Bihar.
5. The Divisional Manager, East Central Railway, Samastipur Division, Samastipur.
6. The Chief Engineer, East Central Railway, Samastipur Division, Samastipur.
7. The Senior Section Engineer (Works Division), Narkatiaganj, East Central Railway, Samastipur Division.
8. The Assistant Divisional Engineer, Narkatiaganj, East Central Railway, Samastipur Division.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 6959 of 2020)

For the Petitioner/s : Mr.Prashant Kumar, Advocate,
Mr. Manaur Alam, Advocate :

For the Railways : Mr. Anil Singh, Advocate

(In Civil Writ Jurisdiction Case No. 2751 of 2020)

For the Petitioner/s : Mr.Sanjeev Kumar Jha, Advocate

For the Respondent/s : Mr.Ramadhar Shekhar (Addl. S.C. Railway)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-11-2021

Heard learned counsel for the parties.

In C.W.J.C. No. 6959 of 2020 petitioner has prayed
for the following relief(s):-

- “(i) For issuance of writ in the nature of CERTIORARI or any other appropriate writ, order/orders for setting aside the notice dated 07.01.2020 and 08.01.2020 issued under the signature of Senior Section Engineer (Works division), East Central Railway, Narkatiaganj (Respondent No.7) by which illegal demands have been made to each and every petitioners as Areas of Licence fee as well as G.S.T. with retrospective effect i.e. since 01.04.1995 to 31.03.2020 as they have been directed to deposit the same till 20.01.2020 otherwise the license of their shops shall be cancelled.
- (ii) For issuance of a writ in the nature of certiorari or any other appropriate writ, order/orders for setting aside the misquoted calculation sheet enclosed with illegal demand notice dated 07.01.2020 and 08.01.2020 respectively, which are beyond the previous agreement executed between the parties from time to time with regard to running of their shops situated over the Railway premises.
- (iii) For issuance of a writ in the nature of mandamus commanding and directing the Respondent authority disturb the petitioners from running their shops/business for their livelihood.
- (iv) For issuance of a writ in the nature of mandamus commanding and directing the respondent authority to consider their previous agreement made between the parties with regard to continuance of the license of the petitioners on the basis of lease fees deposited by the petitioners till the year 2019-2020.

(v) For any other relief/reliefs for which the petitioners are entitled to.”

In CWJC No. 2751 of 2020 petitioner has prayed for the following relief(s):-

“1.That the present writ application is being filed on behalf of the above named Petitioners before this Hon’ble Court for issuance of writ in the nature certiorari or any other writ/writs, order/orders, direction/directions commanding the Respondents authorities for following relief/reliefs :

i) For setting aside the flagrant notice dated 10.01.2020 issued by the Respondent no.7 as Annexure-2 of this petition by which direction has been given to the each and every Petitioners to deposit the so called arrear amount Rs. 1,70,837/- for the period of 01.04.1995 to 31.03.2020 till the date of 20.01.2020, without considering the previous deposited amounts of the Petitioners since year 2019-2020, disclosing the facts that failing which license of Petitioners shall be cancelled.

ii) For issuance of direction to the authorities concerned to abstain from such any atrocious conduct by which the legal rights of the Petitioner for running of his/their business for their livelihood shall be effected.

iii) For issuance of direction to the authorities concern to consider the fair and transparent previous business conduct of the Petitioner with respect to the railway since year of 1973 to till now in a prospective way for the ends of justice.

iv) For issuance of direction to the authorities concern to consider his/their previous agreement made between the Petitioners with regard to continuance of

the license of the Petitioners on the basis of
tease fees deposited by the Petitioners till
the year 2019-2020.

v) For setting aside the misquoted
calculation sheet dated 10.01 2020 with
regards to the Petitioner beyond the
previous agreement made amongst the
parties from time to time with regard to
running of their shops.

vi) For any other relief/reliefs,
direction/directions for which the Petitioner
is entitled.”

Learned counsel for the petitioners 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 petitioners 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 petitioners 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)

Rajiv/veena-

(S. Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA