

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8485 of 2020

Nirmal Kumar Agarwal Son of Late Jagdish Prasad Agrawal resident of Ward No. 1, Hasanpur Bazar, Rampur Rajawa, P.S. Hasanpur, Samastipur - 848205 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, Alok Jha, Advocates
For the Respondent/s	:	Mr. Bijoy Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

2 21-01-2021 Heard learned counsel appearing for the petitioner as well as learned counsel appearing for respondents Railway.

Similar dispute, which the present writ application has, 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 thus:-



“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 ‘वववाचक’ (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



application may also be disposed of, in terms of the said order dated 04.11.2019 in case of **Vijay Sah (supra)**. Mr. Bijoy Kumar Sinha, learned counsel representing the respondents-Railway has no objection to such submission.

This writ application is, accordingly, disposed of with the same direction/ observations, as 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, Hajipur, on the representation of the writ 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 six weeks from today.

(Hemant Kumar Srivastava, J)

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