

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.104 of 2021

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NISHANT AGRAWAL SON OF RAJENDRA AGRAWAL (legal heir and successor to the estate of license holder Ramniwash Agrawal) male aged about 35 years son of Rajendra Agarwal resident of 8, Ward no. 3 Road, Hasanpur Bazar, Rajawa, Hasanpur S.Mill, P.S.- Hasanpur, Samastipur-848205 through his power of attorney holder namely Govind Prasad male aged about 59 years son of Late Chandu Lal Agrawal resident of ward no. 3, 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

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal
For the Respondent/s : Mr.Dr. Anand Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 09-03-2021 The present writ petition has been filed seeking the following reliefs:-

“ (a) For issuance of a writ in the nature of certiorari for quashing of the notice dated 17/21.12.2019 whereby a demand for license fee with increment from retrospective effect (from 01.04.1995 till 2019-2020) has been made in direct contravention of the relevant guidelines



issued by the respondent Railway Board from time to time;

(b) For issuance of a writ or order or direction restraining the respondents from any action for recovery of the amount so demanded by way of the impugned letters and also for restraining the respondents from any other consequential action as a result of non-payment of the amount so demanded through the impugned letter;

(c) For holding and a declaration that the revision of license fee can be done by the respondents only in accordance with clause-7 of the railway board's letter number 2005/LML/18/8 dated 10.02.2005;

(d) For holding and a declaration that there can't be a retrospective revision of license fee with effects of enhancement so as to hold the petitioner liable for payment of the difference which is contrary to and violative of the guidelines issued by the respondent Railway Board."

The learned counsel for the parties jointly submit that similar dispute was admittedly involved in one other writ petition bearing **CWJC No. 18109 of 2018 (Vijay Sah vs. The Union of India & Ors.)**, which has been disposed of by an order passed by a coordinate Bench of this Court **dated 04.11.2019** in



the following terms:-

“ 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 'fookpd (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.”

The learned counsel for the parties submit that the present writ petition be also disposed of in terms of the aforesaid order ***dated 04.11.2019*** passed in the case of ***Vijay Sah (supra)***.

Having regard to the submissions made by the learned counsel for the parties, the present petition stands disposed of in



terms of the aforesaid order ***dated 04.11.2019***, with the same directions and observations.

It is further directed that till a decision is taken by the General Manager, East Central Railway, Zonal Office, Hajipur, Vaishali on the representation of the petitioner herein, no coercive action shall be taken against the petitioner for forcibly evicting him from the premises on the ground of non-payment of the demand on the basis of revised license fee, in case the representation, as aforesaid, is filed by the petitioner within a period of six weeks from today.

(Mohit Kumar Shah, J)

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