

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6382 of 2021

Raj Mangal Sah Son of Late Ram Bharosh Sah, Resident of Village - Hirouta,
P.S. - Tariyani, District - Sheohar.

... .. Petitioner

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.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 2468 of 2020

Vina Kumari, Wife of Gajendra Mahaseth, Resident of Village- Marar, Ward No. 09, P.S. Riga, District- Sitamarhi.

... .. Petitioner

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. SThe 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.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 4428 of 2020

Haidar Khan @ Md. Haidar Khan Son of Late Motiur Rahaman Resident of Mohalla- Pathan Toli, Station Road, Sitamarhi, Ward No. -24, P.S. and District- Sitamarhi.

... .. Petitioner

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.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 6382 of 2021)

For the Petitioner/s : Mr.Birendra Kumar

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 2468 of 2020)

For the Petitioner/s : Mr.Birendra Kumar

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

(In Civil Writ Jurisdiction Case No. 4428 of 2020)

For the Petitioner/s : Mr.Birendra Kumar

For the Respondent/s : Mr.Ramadhar Shekhar (Add.Sc.Railway)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

4 03-02-2022 This matter has been taken up for hearing online because of *COVID-19* pandemic restrictions.

The petitioners, in all these applications, have identical grievance against demand made by the respondent-East Central Railway to pay arrears of rent on the basis of revised license fee for the shops allotted to them.

Mr. Abbas Haider, learned counsel appearing on behalf of the respondent East Central Railway has produced before us a Division Bench decision of this Court dated



30.11.2021 rendered in C.W.J.C. No. 10877 of 2020 (***Sanjay Kumar @ Sanjay Kumar Barbaria vs. The Union of India and Others***) and a Single Bench decision rendered on 04.11.2019 in C.W.J.C. No. 18109 of 2018 (***Vijay Sah Vs. The Union of India and Others***) and contends that these applications may also be disposed of in same terms as indicated in case of ***Vijay Sah*** (supra). Relevant portion of the order dated 04.11.2019 in case of ***Vijay Sah*** (supra) reads as under:-

“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 Division Bench has passed the following order in case of **Sanjay Kumar** (supra) : -

"Learned counsel are ad idem that the present case is squarely covered by a judgment dated 04.11.2019 rendered by a learned Single Judge of this Court in CWJC No. 18109 of 2018 (Vijay Sah v. Union of India and Others) as also by a judgment dated 06.11.2020 rendered by a learned Single Judge of this Court in



CWJC No. 8604 of 2020 (Bharat Kumar Agarwal @ Bharat Kumar vs. The Union of India and Others) and another analogous cases.

We, thus, dispose of the instant case with the same direction and observation as has been made in the aforesaid judgment dated 04.11.2019 (supra) and 06.11.2020 (supra).”

Considering the above-mentioned orders of this Court and in the light of the submissions made on behalf of the petitioners, these applications are also disposed of accordingly, in same terms.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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