

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13128 of 2021

Century Business Private Limited Registered under the Indian Companies Act, having its Office at 108, Emarat Firdaus, Exhibition Road, Patna- 1, through its Director, Shashi Kumar Chaudhary, Gender- Male, aged about 52 Years, S/o Shri. Banwari Lal Chaudhary.

... .. Petitioner/s

Versus

1. The Union of India Ministry of Railways, Railway Board, New Delhi through its Chairman.
2. The Joint Director (NFR), Railway Board, New Delhi.
3. The East Central Railway, having its Office at Hajipur in the District of Vaishali (Bihar) through its General Manager.
4. The Principal Chief Commercial Manager, East Central Railway, having its Office at Hajipur in the District of Vaishali (Bihar).
5. The Deputy Chief Commercial Manager, East Central Railway, having its Office at Hajipur in the District of Vaishali (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raju Giri, Advocate
For the Respondent/s : Mr.Ramadhar Shekhar (Addl. S.C. Railway)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 13-01-2022 Petitioner has prayed for the following relief(s):

“To issue an appropriate writ/ order / direction, in the nature of Certiorari for quashing the letter dated 24.05.2021 issued by the Deputy Chief Commercial Manager, East Central Railway, Board, by which ignoring the directives of the Railway Board, he has been pleased to demand security deposit amounting



Rs. 2737625/- for escalated license fee of fourth year since 16.04.2021 and also license fee since 24.03.2020 (as contained in Annexure-14).

(ii) To issuance an appropriate writ / order / direction, in the nature of Certiorari for quashing the letter dated 9.06.2021 issued by the Deputy Chief Commercial Manager, East Central Railway by which misinterpreting and misconstruing the Railway Board circular no. 50 dated 12.09.2018 and 63 dated 1.11.2018 has been pleased to direct the petitioner to deposit security deposit.

(iii) To further issuance an appropriate writ / order / direction, in the nature of Certiorari, for quashing the letter dated 18.06.2021 passed by Deputy Chief Commercial Manager, East Central Railway, by which in an arbitrary manner rejecting the representation of the petitioner has insisted to pay security deposit.

(iv) To issue an appropriate writ / order / direction, in the nature of mandamus commanding the respondents East Central Railway to grant 90 days relaxation in license fee to the petitioner by treating the period from 25.03.2020 to 22.06.2020 (Lockdown Period) as “ Dies – non” as granted by the Railway Board from payment of license fee.

(v) To further issue an appropriate writ / order / direction, in the nature of mandamus commanding the respondents East Central Railway to grant relief in charging of the license fee after the “Dies-non” period (25.03.2020 to 22.06.2020), i.e., from 22.06.2020 to 31.03.2021 under the existing terms and conditions of contract which provide for addition/modification/review in existing agreement with mutual consent with concurrence of finance taking into consideration eyeballs/footfalls on station as has been provided to the similar contracts by the Office of the Divisional Railway Manager (Commercial Branch) Hyderabad Division, South Central Railway, Secunderabad vide letter dated 5.11.2020.

(vi) To issue an appropriate writ /order / direction / in the nature of mandamus commanding the respondents to further give relaxation in license fee to the petitioner by treating the period from 1.04.2021 to 30.06.2021 (lockdown period) as “Dies-non” from payment of license fee and further give relaxation in



license fee from 30.06.2021 till the situation becomes normal taking into consideration the eyeballs/footfalls on station after mutual discussion.

(vii) To issue an appropriate writ / order / direction, in the nature of mandamus commanding the respondents to reduce the Security deposit equivalent amount from six months license fee for the final year of the contract to three months equivalent license fee.

(viii) To any other relief or reliefs for which the Petitioner is found to be entitled in the facts and circumstances of the case.”

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if the present petition is disposed of with a direction issued to Respondent No. 4, namely The Principal Chief Commercial Manager, East Central Railway, Hajipur to consider and decide the representation to be filed within four weeks along with a copy of this order, within a period of three months from the date of its presentation.

Without expressing any opinion on merits of the claim, petition is disposed of with the liberty aforesaid. All issues on facts and law are left open.

Needless to say that while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall have liberty to approach this Court by way of separate



petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

The petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS

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