

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17632 of 2021

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1. Rakesh Kumar Son of Govind Prasad Sah Resident of Village Dunmawaliya, Ward No. 10, Police Station - Bagaha, District- West Champaran.
 2. Jitendra Prasad Son of Lathuni Sah Resident of Village - Malkauli, Police Station - Bagaha, District- West Champaran.
 3. Dhanraj Sharma Son of Muni Sharma Resident of Village - Bagaha, Police Station- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Railway, New Delhi.
2. The General Manager, East Central Railway, New Delhi.
3. The Assistant Divisional Manager, East Central Railway, Narkatiyaganj.
4. The Divisional Manager, Rail Engineering, East Central Railway, Samastipur.
5. The Senior Section Engineer (Works) Narkatiyaganj.
6. The Station Master, Bagaha Railway Station, Narkatiyaganj, West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Suresh Prasad Sharma, Advocate
For the Respondent/s	:	Mr. Pradeep Kumar, Senior CGC
		Mr. Ratnesh Kumar, CGC

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date: 10-05-2022

The present writ petition has been filed for quashing the notices issued to the petitioners by the authorities of the East Central Railway, whereby and whereunder the license fee, pertaining to the shops of the petitioners in question, has been revised with retrospective effect i.e. with effect from 01.04.1995



to 31.03.2020 and a huge demand has been made with a further stipulation that in the event of default in depositing the same, the license of the shops of the petitioners would be cancelled.

The learned counsel for the parties at the outset point out that similar matters have already been disposed off by coordinate Benches of this Court vide order dated 04.11.2019 passed in CWJC No. 18109 of 2018 (Vijay Sah vs. The Union of India & ors.) and vide order dated 06.11.2020 passed in CWJC No. 8604 of 2020 and other analogous cases. It is submitted that the aforesaid writ petitions be also disposed off in terms of the said orders passed by the coordinate Benches of this Court in the case of Vijay Sah etc.

At this juncture, it would be relevant to reproduce relevant portion of the order dated 04.11.2019 passed in the case of Vijay Sah (supra) herein below:-

“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 *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 writ application stands disposed off."

With the express agreement and consent of the learned counsel for the parties, the present writ petitions are also disposed off in terms of the aforesaid order dated 04.11.2019 passed in the case of Vijay Sah (supra), however, it is directed



that till final award is rendered by the Arbitrator, no coercive action shall be taken against the petitioners including that of eviction and realisation of the arrears of license fee from the petitioners, however, the petitioners would continue to pay the license fee as per the pre-existing rate.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	17.05.2022
Transmission Date	

