

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2216 of 2020

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Mahendra Thakur S/o Late Thaga Thakur Resident of Village- Kmal dah,
Ward No.-6, P.S.- Bathnaha, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. Divisional Railway Manager (Engineer), East Central Railway, Samastipur.
3. Divisional Engineer, East Central Railway, Samastipur.
4. Divisional Zonal Manager, Sonepur Division, Hajipur.
5. Senior Section Engineer, Works, East Central Railway, Darbhanga.
6. Assistant Divisional Engineer 1st, Darbhanga.

... .. Respondent/s

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Appearance :

FFor the Petitioner/s	:	Mr. Punam Shrivastava, Advocate
		Mr. Pradeep Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Ramadhar Shekhar, Add. SC. Railway
		Mr. Anil Singh, Advocate
		Mr. Abhay Shankar Jha, Advocate
		Ms. Punam Kumari Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-09-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

1. That by this writ application, the petitioner craves indulgence of this Hon'ble Court for issuance of appropriate writ for quashing the demand notice dated 30.01.2017 (Ann.-3) issued by Respondent No. 2 as well as dated 09.07.2019 (Ann.-4) issued under the signature of the Respondent no. 6 whereby petitioner was directed for payment of outstanding rent/license fee on revised enhanced rate for an amount of Rs.1,26,724.37 till March,



2019 for the shop bearing shop/plot No. 81 in the premises of Sitamarhi Railway Station allotted by the railways, which is entirely illegal and contrary to the judgement of this Hon'ble Court rendered in the case of Raj Kumar Jha and others versus – the Union of India and others (CWJC No. 9819 of 2016) decided on 21.03.2017 in which the Hon'ble Court had held that there can not be an enhancement of rent with retrospective effect.

Learned counsel for the petitioner prays that the matter be disposed of in terms of the order dated 04.11.2019 passed by different Benches of this Court in C.W.J.C. No. 18109 of 2018 titled as Vijay Sah Vs. The Union of India & Ors.; order dated 06.11.2020 in CWJC No.8604 of 2020 titled as Bharat Kumar Agarwal @ Bharat Kumar Vs. The Union of India & Ors. and other connected writ petitions; order dated 01.03.2021 in CWJC No.2807 of 2020 titled as Arun Kumar Singh Versus The Union of India and others and other connected writ petitions.

However, we are of the considered view that the matter has to be decided in the light of the judgment rendered by Hon'ble the Apex Court in **Central Organisation for Railway Electrification Versus ECI-SPIC-SMO-MCML (JV) a Joint Venture Company, (2020) 14 SCC 712.**

Learned counsel for the parties state that they have



no objection to the matter being disposed of in terms of the ratio laid down in **Central Organisation for Railway Electrification** (Supra). However, with vehemence, learned counsel for the petitioner states that till such time the arbitrator is appointed, respondent should not take any coercive action against petitioner, including initiating proceedings for eviction and realization of arrears of licence fee.

Well, we have no difficulty in accepting such prayer, more so, when the parties are ad idiom of taking recourse to the Mechanism provided under the agreement, and the matter adjudicated in the light of the principles laid down by the Hon'ble the Apex Court in **Central Organisation for Railway Electrification** (supra).

As such, the writ petition is disposed of in the following mutually agreeable terms:-

(a) The petitioner shall approach the respondents, invoking the arbitration clause and the respondents shall act in terms of the law laid down by Hon'ble the Apex Court in **Central Organisation for Railway Electrification** (Supra).

(b) Till such time the arbitrator is appointed, no coercive action shall be taken against the petitioner, either for his eviction or realization of any amount towards arrears of



license fee.

(c) With the appointment of the arbitrator, it shall be open for the parties to seek extension of the order during the period of the arbitration proceedings.

(d) The petitioner shall continue to pay the amount in term of the original agreement (pre existing rate of the license fee).

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	23.09.2022
Transmission Date	

