

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.303 of 2020

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Kashi Nath Prasad @ Kashinath Prasad, son of Satya Narayan Sah, resident of Koat Bazar, Ward No. 11, Chak Mahila, P.S. Sitamarhi, District- Sitamarhi.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railway, Hajipur, District- Vaishali.
3. The Principal Chief Engineer, East Central Railway, Hajipur, District- Vaishali.
4. The Divisional Rail Manager/ Engineer, East Central Railway, Samastipur.
5. The Senior Divisional Engineer (1), East Central Railway,, Samastipur.
6. The Senior Section Engineer (Work), East Central Railway, Darbhanga.
7. The Assistant Divisional Engineer (1st), East Central Railway, Darbhanga.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Pushpendra Kumar Singh
For the UOI	:	Ms. Priyanka Raj Laxmi, Advocate
For the Raiways	:	Mr.Ramadhar Shekhar (Add.Sc.Railway)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and

HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 28-06-2022

Heard learned counsel for the parties.

2. In the present writ petition, the petitioner has prayed for following reliefs :-

“(i) For issuance of an appropriate writ in the nature of Certiorari for quashing the demand notice contained in letter nos.W/2-14/Shop/ Sam./W-4 daated 30.01.2017 issued under the joint signature of the Respondent



No.4 whereby and whereunder the petitioner was directed to deposit the amount of Rs.96,887.92/-in the office of the respondent no.6 within seven days against the arrears of revised license fee in respect of land of Railway allotted to the petitioner bearing Shop/Plot No.46 outside the Sitamarhi Railway Station from 1995-96 till 2016-17 in view of the Board Letter No.2005/ LML/18/08 dated 10.02.2005 and 08.06.2005 on the ground that the petitioner's allotment is not covered by the revised license fee of the Railways issued under Railway Board Letter No.2005/LML/18/8 dated 10.02.2005 and 08.06.2005.

(ii) For issuance of an appropriate writ in the nature of certiorari for quashing the demand notice contained in letter nos. W/214/Shoping dated 09.07.2019 issued under the joint signature of the respondent no.6 and 7 whereby and whereunder the petitioner was directed to deposit the amount of Rs.1,37,350.05 against the arrear of revised license fee till March, 2019 within 15 days in the office of the respondent no.6 failing which action would be taken for cancellation of his license.

(iii) For a declaration that since according to the Railway Board Letter No.2005/LML/18/8 dated 10.02.2005 and 08.06.2005 and the minimum size of land



which is covered under revised license fee is 100 square meter and on wards, the petitioner's land of the size 10ftx10ft is not covered by the aforesaid revised license fee, and therefore, the action of the respondents while demanding revised license fee from the writ petitioner is illegal and unwarranted.

(iv) For a further declaration that since the petitioner was regularly depositing the license fee as fixed by the respondents and the same was accepted by them without any objection till the date of issuance of the impugned notice, the respondent authorities are not entitled to charge the petitioner to deposit the license fee at the enhanced rate with retrospective effect i.e. since 1995-96 and onwards.

(iv) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. The grievance of the petitioner is against the demand made by the respondent-East Central Railway to pay the arrears of rent on the basis of revised license fee for the shop allotted to him.

4. Mr. Pushpendra Kumar Singh, learned counsel



appearing on behalf of the petitioner has produced before us a Single Bench decision of this Court rendered on 04.11.2019 in CWJC No.18109 of 2018 (***Vijay Sah vs. The Union of India & Ors.***). He has also produced before us a Division Bench judgment of this Court rendered on 30.11.2021 in CWJC No.10877 of 2020 (***Sanjay Kumar @ Sanjay Kumar Barbaria vs. The Union of India & Ors.***). He contended that the present application may also be disposed of in the same terms as indicated in case of ***Vijay Sah*** (supra).

5. Relevant portion of the order dated 04.11.2019 in the 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."

6. The Division Bench has passed the following order in the 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).”

7. Learned counsel appearing for the East Central Railway states that he has no objection in case the case of the petitioner is disposed of in terms of the aforesaid orders passed by this Court.

8. Considering the submissions made on behalf of the parties and the above-mentioned orders of this Court, this application is also disposed of in the same terms, accordingly.

(Ashwani Kumar Singh, J)

(Dr. Anshuman, J)

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AFR/NAFR	NA
CAV DATE	NA
Uploading Date	30.06.2022
Transmission Date	NA

