

11th May,
2022
(AK)
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W.P.A 7560 of 2022
Pancham Kumar Singh
Vs.
The Union of India and others

Mr. Billwadal Bhattacharyya
Mr. Arijit Majumdar
...for the respondents.

This is the second occasion when the petitioner is unrepresented, since on May 6, 2022, an adjournment was sought on the ground of the petitioner as well, although the respondents are represented through counsel.

Learned counsel for the respondents relies on an unreported judgment of this court dated May 6, 2022 passed in WPA 7806 of 2022 (*Pancham Kumar Singh Vs. Union of India and others*) to indicate that the issue raised in the present writ petition is no longer *res integra*.

As such, it is submitted that the present writ petition may also be disposed of in the light of the said judgment.

In the cited unreported judgment, the attending circumstances, as recorded therein, were similar to the present case and, upon perusal of Clause 5.2(ii) of the tender notice, it was observed that the same clearly showed that the existing lease-holders, which is the present status of the writ petitioner, shall be accommodated till validity of their contract, subject to the willingness of the existing lease-holders, in lieu of which

the service provider will collect fees from the said lease-holders of not more than license fee to be paid to railways by lease-holders.

It was further observed that the service provider, as such, in whose favour the successful tender would go, would merely operate as an agent by virtue of the contract entered into with it by the railways for the limited purpose of asserting the rights of the railways for collection of fees from the existing lease-holders.

It was also observed that neither the rights of the writ petitioner in the capacity of an existing lease-holder nor the liabilities of the railway authorities vis-à-vis the petitioner in respect of the agreement with the petitioner are affected and hence there was no scope of any legal, contractual or constitutional right of the petitioner being violated.

Since the present writ petitioner, as evident from the pleadings in the writ petition itself, are on similar footing as the writ petitioner in the said unreported judgment, in all probability the grievance raised by the petitioner in the present writ petition also stands mitigated in the light of the said order.

As such, it is natural that the petitioner might not be further interested in proceeding with the writ petition.

In any event, since the merits of the matter cannot be gone into in the absence of the petitioner, WPA 7560 of

2022 is dismissed for non-prosecution without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)