

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.7833 OF 2008

Chilukuri Venkat Rao

....

Petitioner

Mr.UK.Samal, Adv.

-versus-

East Coast Railway, Sambalpur & ors.

Opposite Party(s)

Mr.B.S.Rayaguru, Adv..

CORAM:

JUSTICE BISWANATH RATH

ORDER

22.11.2022

Order No.

8

1. Heard learned counsel for the Parties.
2. The Writ Petition involves the following prayer :-
“It is prayed, therefore, that this Hon’ble Court may graciously be pleased to :-
a) Admit the writ application.
b) Call for the record.
c) Issue rule Nisi calling upon the Opp.Party as to why the permission shall not be accorded to take back the superstructure of the temporary shade constructed by the Petitioner for cycle/motor cycle/scooter and Car Stand at Sambalpur Railway Station and till then the Petitioner may continue as the licensee.
d) If the Opp.Party do not show cause or show cause or show insufficient cause, issue a writ in the nature of mandamus or any other appropriate writ/writs,

order/orders, direction/directions in directing the Opp.Parties to permit the Petitioner to take back the superstructure of the temporary shade constructed by the Petitioner for cycle/motor cycle/scooter and Car stand at Sambalpur Railway Station and till then the Petitioner shall continue as the licensee.”

3. Considering the rival contentions of the Parties, this Court finds, Annexure-2, the permission to the Petitioner in the matter of erecting shelter on additional space allotted to cycle, scooter & car stand, by the Railway at Sambalpur, reads as follows :-

“East Coast Railway
Office of the
Divl.Railway Manager (Comml.)
Sambalpur, Dt.10.07.2006

No.C/SBP//CS & Car stand/SBP06

To
Sri Ch Venkat Rao
Contractor, Cycle, Scooter & Car Stand,
Sambalpur.

Dear Sir,

Sub.:- Permission to erect shelter on additional space
allotted to Cycle, Scooter & Car stand,
Sambalpur.

Ref.:- Your application dt.28/06/06.

You are permitted to construct shelter with good look at the additional space as per the sketch enclosed at your risk and cost. In case it is felt by the administration that the construction of the above temporary shed is affecting the aesthetic of the parking area, the same shall be modified dismantled at your cost and no compensation whatsoever shall be paid to you. While vacating the site, you may take over superstructure without removing vertical planted poles.

Sd./-(M.M.Rao)
Divl.Railway Manager (Comml.)”

4. Considering the contentions and reading the prayer portion, further the condition in grant of permission to the Petitioner, this Court finds, the Petitioner was already put to condition to take over the superstructure without removing vertical planted poles. For the liberty already there with the Petitioner, no Authority or Individual can intervene in such removal.

5. The Writ Petition thus stands disposed of observing, there cannot be any obstruction in removal of the superstructure by the Petitioner but it should be strictly in terms of the condition laid in Annexure-2 and recorded herein above. The Petitioner undertakes to take out the superstructure at least within a period of one month from today.

M.K.Rout

(Biswanath Rath)
Judge