

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10348 of 2022

Dev, Proprietor of Dev Construction S/o Krishna Nand, R/o Village-Paria,
Bariyarpur, Sotipul, P.S. Bariyarpur, District-Munger.

... .. Petitioner/s

Versus

1. The Union of India through the Senior Divisional Commercial Manager,
Eastern Railway, Malda.
2. The Senior Divisional Commercial Manager, Eastern Railway, Malda, P.S.
Malda, P.O.-Jhaljhalia, District-Malda, West Bengal.
3. The State of Bihar through the Superintendent of Police, Munger.
4. The Superintendent of Police, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravish Mishra,, Advocate Mrs. Keeritika Shakshi, Advocate
For the State	:	Mr. Suman Kumar Jha AC to AAG-III
For the Respondent/s		Mr. A.K.Pandey, Advocate Mr. Ravindra Kumar Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

5 17-03-2023 In the instant petition, petitioner has prayed for the
following reliefs;-

*“ For issuing appropriate writ(s)/
direction(s) in the nature of Certiorari
to quash and set-aside the letter dated
11.06.2022, issued by the Senior
Divisional Commercial Manager,
Eastern Railway, Malad (Respondent
No. 2), wherein and whereunder in a
most arbitrary and mechanical manner
without adhering to the guidelines and
provisions, the subject tender of the
petitioner related to 02/03/04/06
wheeler parking stand at Bariarpur
Railway Station circulating area for*



03(three) years has been terminated on account of the fact that the Character certificate of the petitioner has been cancelled and further the/Earnest Money Deposit (EMD), Security Deposit Performance Guarantee and License Fees etc, which has been deposited by him amounting to Rs. 9,09,850/- have been forfeited as per contract terms and conditions.

(ii) For issuing appropriate writ(s)/ order(s)/ direction(s) so as to stay the enforceability and operation of the Quotation Notice No. COM/BUP/2022, dated 15.06.2022, which has been issued pursuant to the cancellation of the aforesaid Subject Tender of the petitioner and in the same quotations have been invited for three(03) on temporary basis for vehicles parking at Bariarpur Railway Station.

(iii) For seeking explanation from the Respondents, as to why the settled principles and scales of natural justice have not been followed.

(iv) For further seeking explanation from the Superintendent of Police, Munger (Respondent No.3), as to why the character certificate issued initially to the petitioner on 12.03.2022 from his office in inquiry has been found false and concocted from him himself.

(v) For issuing directions and orders to the respondent authorities of the Railways, so as to take immediate steps for returning the Earnest Money Deposit (EMD), Security Deposit Performance Guarantee and License Fees etc, amounting to Rs. 9,09,850/- with interest, which has been deposited by the petitioner and which they have



forfeited.

(vi) For any other relief/reliefs to which the petitioner is found to be entitled in the facts and circumstances of this Case.”

The petitioner has assailed the communication of termination of dealers wheeler Parking stand at Bariarpur Railway Station circulating area for 03(three) years w.e.f 19.04.2022 to 18.07.2022. The concerned authorities-respondents noticed that petitioner had furnished fake character certificate. It was verified by the jurisdictional appellate authorities and have canceled the character certificate on 12.03.2022. In this backdrop read with Clause 1 of custom to the Malda Division Commercial Manager Eastern Railway, the document impugned action has been taken by the concerned respondents Clause 1 under the heading of custom of the tender documents reads as follows :-

“It is humbly and respectfully submitted that the moment answering respondent come to know about the criminal antecedent of the writ petitioner, cancelled his character certificate no. BCHC2022/165345 dated 12.03.2022 which was issued on incorrect verification report submitted by SI Lalan Ram of Bariarpur Police Station.”

In the light of these facts and circumstances as well as petitioner has not assailed the cancellation of character



certificate dated 12.03.2022 before jurisdictional forum, this Court cannot interfere with the impugned action dated 11.06.2022.

Accordingly, petitioner has not made out case so as to interfere with the impugned communication dated 11.06.2022. Hence the writ petition stands dismissed reserving liberty to the petitioner to assail the cancellation of character certificate dated 12.03.2022 in accordance with law. In the event of cancellation of character certificate dated 12.03.2022 enquired by the competent authority and it is set aside, the petitioner is at liberty to file fresh petition questioning the impugned communication dated 11.06.2022 insofar as the refund of EMD amount is concerned.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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