

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5947 of 2017

=====

Miss Dolly daughter of Late Md. Rafiq, House no.601, Royal Hasmat Villa,
Aashiyana Nagar, Shastri Nagar, Patna- 800014.

... .. Petitioner/s

Versus

1. The Union Of India
2. The Accountant General, Accountant General Office, Patna, Bihar.
3. The General Manager, Eastern Central Railway, Hazipur, Bihar.
4. The Divisional Commercial Manager, Dhanbad.
5. The Additional Commercial Manager, Dhanbad.
6. The Additional Commercial Manager, Dhanbad.
7. Senior Division Commercial Manager, Dhanbad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. S.D Sanjay Addl. Soc. Gen.

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 27-06-2023

None appears for the petitioner.

2. Learned counsel for the respondents submitted that in the absence of petitioner counsel, writ petition cannot be allowed. At best the writ petition is to be dismissed for non-prosecution or it should be adjourned. Such argument cannot be acceptable to this Court. It is the discretionary of this Court either to adjourn the matter or to dismiss for non-prosecution or to allow the writ petition in the interest of litigant. In other



words, in absence of a counsel, if this Court finds that the petitioner has made out a case, matter cannot be adjourned or dismissed for non-prosecution. In other words, ultimately, it is the discretionary of this Court. Hence, the argument made on behalf of learned counsel for the respondent stands rejected.

3. In the instant petition, the petitioner has prayed for the following reliefs:-

“(i) That the petitioners’ grievances and claims may be directed to be treated equally in the National wealth and opportunity of the country.

(ii) That the representation of the petitioners may be directed to be disposed of within a short span of time considering all the grievances and claims raised therein.

(iii) That unless and until the matter is decided finally the respondents may be restrained from proceeding further defeating the grievances and claims of the petitioners.”

4. The concerned respondent proceeded to terminate the contract in connection with non-deposition of second installment of the quarterly license fee of parking stand at the south side (Hazaribagh end) of Koderma Railway Station for the period from 02.01.2016 to 01.04.2016 amounting to Rs. 1,02,750/- plus Service Tax @ 14.5 %, Rs. 14899.

5. In this regard, the official respondents have



communicated to the petitioner on 17.12.2015, 04.01.2016 and 01.03.2016. Even though, the respondents have issued a show-cause notice asking the petitioner's show cause notice in so far as proposal for termination and forfeiting certain deposited amount. Such a notice date and reference has not been communicated in the termination of contract dated 31.03.2016. That apart, if the petitioner fails to submit his reply to the show-cause notice, even on such issue, the order of termination of contract dated 31.03.2016 is silent. In other words, there is totally non-application of mind in terminating the contract of the petitioner dated 31.03.2016.

6. Accordingly, the petitioner has made out a case and termination of contract dated 31.03.2016 stands set aside, reserving liberty to the concerned respondent to initiate a fresh proceeding by issuing a show-cause notice and on receipt of petitioner's explanation, proceed to pass a fresh order after due consideration of each of the contentions to be raised by the petitioner. Even if he fails to submit explanation in that event perused the record and pass speaking order. The above exercise shall be completed within a period of three months from date of receipt of this order.

7. Any disputed issue relating to monetary benefits to



be paid by the respondents in this regard, the petitioner is permitted to file his detailed representation for refund of any such amount.

8. With the above observations, the writ petition stands allowed in part with cost of Rs. 5,000/- to be paid to the petitioner within a period of four weeks. Cost is imposed for non-adhering to material information and non-speaking order.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/ashish
kr/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	07.07.2023
Transmission Date	

