

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.271 of 2022
In
Civil Writ Jurisdiction Case No.1213 of 2022

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1. Society of the Sisters of the Sacred Heart Patna through its Superior General cum President Sister Josette SSH, female, aged about 71 Years Daughter of Late Joseph Vatoth, Resident of Sacred Heart Generalate, Balupar, P.S. Digha, District-Patna.
 2. St. Joseph's Academy Sonapur through its Principal, Sr. Regina Mary S.S.H. aged about 55 Years Daughter of Late Ignace resident of St. Joseph s Academy, Railway Officers Colony, Sonapur, P.S. Sonapur, District Saran.

... .. Appellant/s

Versus

1. Union of India Through the Secretary, Department of Railways, Government of India, New Delhi.
2. Railway Board, through its Chairperson, Rail Bhavan, Raisin Road, New Delhi.
3. East Central Railway through the General Manager, East Central Railway, Hajipur, Vaishali District, Bihar.
4. General Manager, East Central Railway, Hajipur, Vaishali District, Bihar.
5. Divisional Railway Manager, Sonapur Division, East Central Railway, Sonapur, Saran District
6. Sr. Divisional Engineer, (DEN), Sonapur Division, East Central Railway, Sonapur, Saran District

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. K.M.Joseph, Advocate

For the Respondent/s : Mr. Amarendra Nath Verma, Sr. Panel Counsel

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-09-2024

The 1st appellant-a society of nuns is running a High School in the property leased out by the East Central Railways, through the General Manager. The lease was in the year 1984 and for a period till 2014. After the lease period got over, the



appellants have been asking for renewal of the lease, which had not been granted. A writ petition was filed for a mandamus to the General Manager to consider the extension.

2. A letter dated 04.01.2022 issued by the General Manager, Engineering Office, East Central Railway, Hajipur which refused continuance of the lease was also challenged. The petitioners prayed for a mandamus to renew the lease on mutually agreed terms, as it was available in the earlier lease. The learned Single Judge found that the dispute is a pure civil dispute between the Railways and the petitioners and is not to be adjudicated by invoking writ jurisdiction under Article 226 of the Constitution of India.

3. Considering the fact that only a mandamus is sought for, we are inclined to direct the General Manager, East Central Railway to consider the application for continuation of the lease, as per the extant policy of the Railways, especially since Annexure-6 (No.2003/LML/21/20) dated 29.09.2003 produced along with the rejoinder clearly indicate that extending licenses of school and religious institutions have to be carried out by General Managers of Zonal Railways/Production Units, who would exercise these powers in consultation with the F.A. and C.A.Os; which powers also cannot be further delegated.



4. We make it clear that we have not observed anything on the merits of the claim raised by the appellants.

5. We also make it clear that there can be no insistence that the lease should be extended on the terms of the earlier lease agreement. Definitely, the policy of the Railways and the consultation with the F.A. and C.A.Os will have to be weighed by the General Manager before a continuance is permitted.

6. In the above circumstances, the General Manager, East Central Railways, Hajipur, District-Vaishali, Bihar shall consider the issue within a period of three months from the date of receipt of the certified copy of this judgment.

7. The appeal stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
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