

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9155 of 2013

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Bishwanath Singh @ Ram Ugrah Singh S/O Late Mangal Singh R/O
Mohalla- Sachipatti, P.S. Town, Hajipur, District- Vaishali

... .. Petitioner/s

Versus

1. The Union Of India and Ors Eastern Central Railway, Hajipur
2. The General Manager East Central Railway, Hajipur
3. The Divisional Rail Manager East Central Railway, Sonapur
4. The Divisional Rail Manager Engineer Null East Central Railway, Sonapur
5. The Assistant Divisional Fin. Manager East Central Railway, Sonapur
6. The Divisional Engineer Special East Central Railway, Sonapur
7. The Assistant Divisional Engineer Line East Central Railway, Sonapur
8. The Senior Section Engineer Work East Central Railway, Hajipur
9. The Section Engineer Work Hajipur, East Central Railway, Hajipur

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9097 of 2013

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Chandradeep Singh S/O Late Harihar Singh R/O Mohalla Sachipatti, P.S.
Town Hajipur, District - Vaishali

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The General Manager, East Central Railway, Hajipur
3. The Divisional Rail Manager, East Central Railway, Sonapur
4. The Divisional Rail Manager Engineer, East Central Railway, Sonapur
5. The Assistant Divisional Fin. Manager, Eastern Central Railway, Sonapur
6. The Divisional Engineer Special Eastern Central Railway, Sonapur
7. The Assistant Divisional Engineer Line, East Central Railway, Sonapur
8. The Senior Section Engineer Work, East Central Railway, Hajipur
9. The Section Engineer Work Hajipur, East Central Railway, Hajipur

... .. Respondent/s

with



Civil Writ Jurisdiction Case No. 9156 of 2013

Chandra Raman Sharma @ Mithilesh Singh S/O Late Singheshwar Singh R/O
Mohalla- Sachipatti, P.S. Town, Hajipur, District- Vaishali

... .. Petitioner/s

Versus

1. The Union Of India and Ors Eastern Central Railway, Hajipur
2. The General Manager, East Central Railway, Hajipur
3. The Divisional Rail Manager, East Central Railway, Sonapur
4. The Divisional Rail Manager Engineer, East Central Railway, Sonapur
5. The Assistant Divisional Fin. Manager East Central Railway, Sonapur
6. The Divisional Engineer Special East Central Railway, Sonapur
7. The Assistant Divisional Engineer Line East Central Railway, Sonapur
8. The Senior Section Engineer Work, East Central Railway, Hajipur
9. The Section Engineer Work Hajipur, East Central Railway, Hajipur

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9157 of 2013

Ganesh Singh S/O Sri Ramkishun Singh R/O Mohalla- Sachipatti, P.S.- Town
Hajipur, District- Vaishali

... .. Petitioner/s

Versus

1. The Union Of India and Ors Eastern Central Railway, Hajipur
2. The General Manager, East Central Railway, Hajipur
3. The Divisional Rail Manager, East Central Railway, Sonapur Null Null
4. The Divisional Rail Manager Engineer Null East Central Railway, Sonpur
5. The Assistant Divisional Fin. Manager, East Central Railway, Sonapur
6. The Divisional Engineer Special East Central Railway, Sonapur
7. The Assistant Divisional Engineer Line, East Central Railway, Sonapur
8. The Senior Section Engineer Work, East Central Railway, Hajipur
9. The Section Engineer Work Hajipur, East Cetnral Railway, Hajipur

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9200 of 2013



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Ruplal Singh @ Mithilesh Kr. Ray S/O Late Durga Ray R/O Mohalla-
Chiknouta, P.S- Town, Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The General Manager, East Central Railway Hajipur.
3. The Divisional Rai Manager, East Central Railway, Sonapur.
4. The Divisional Rail Manager, Engineer, East Central Railway, Sonapur.
5. The Assistant Divisional Fin. Manager, East Central Railway, Sonapur.
6. The Divisional Engineer Special, East Central Railway, Sonapur.
7. The Assistant Divisional Engineer Line, East Central Railway, Sonapur.
8. The Senior Section Engineer Work, East Central Railway, Hajipur.
9. The Section Engineer Works, Hajipur, East Central Railway, Hajipur.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 9202 of 2013

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Asit Kumar S/O Sri Rishideo Roy R/O Mohalla- Akilabad, P.S- Hajipur
Railway, Hajipur.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The General Manager, East Central Railway Hajipur.
3. The Divisional Rail Manager, East Central Railway, Sonapur.
4. The Divisional Rail Manager, Engineer, East Central Railway, Sonapur.
5. The Assistant Divisional Fin. Manager, East Central Railway, Sonapur.
6. The Divisional Engineer Special, East Central Railway, Sonapur.
7. The Section Engineer Works, Hajipur, East Central Railway, Hajipur.

... .. Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 9155 of 2013)

For the Petitioner/s : M/s Birju Prasad
Ajit Anand
Shweta Anand, Advocates



For the Respondent/s : Mr. Arun Kumar Satyamurti, CGC
Mr. Awadhesh Kr. Pandey, Sr.CGC
Mr. Arvind Kumar, CGC

(In Civil Writ Jurisdiction Case No. 9097 of 2013)

For the Petitioner/s : M/s Birju Prasad
Ajit Anand
Shweta Anand, Advocates
For the Respondent/s : Mr.Ram Tujabh Singh,CGC
Mr. Radhika Raman, Sr. CGC

(In Civil Writ Jurisdiction Case No. 9156 of 2013)

For the Petitioner/s : Mr.Birju Prasad
For the Respondent/s : Mr. Alok Kumar Agrawal, Sr. Panel Counsel
Mr.Ram Tujabh Singh,CGC
Mr. Radhika Raman, Sr. CGC

(In Civil Writ Jurisdiction Case No. 9157 of 2013)

For the Petitioner/s : Mr. Birju Prasad
For the Respondent/s : M/s Awarendra Nath Verma, Sr.CGC
Surbhi Bhushan

(In Civil Writ Jurisdiction Case No. 9200 of 2013)

For the Petitioner/s : M/s Birju Prasad
Ajit Anand
Shweta Anand, Advocates
For the Respondent/s : Mr. Deepak Kumar, Sr.CGC
Mr. Arvind Kumar, CGC

(In Civil Writ Jurisdiction Case No. 9202 of 2013)

For the Petitioner/s : M/s Birju Prasad
Ajit Anand
Shweta Anand, Advocates
For the Respondent/s : Mr.Ram Tujabh Singh,CGC
Mr. Radhika Raman, Sr. CGC

**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY**

ORAL JUDGMENT

Date : 22-04-2024

Identical issues being involved in all the matters



which were considered together and are being disposed of by a common order.

2. However, there is a slight variation of Railway Plot Number in each of the writ petition hence for better appreciation of the case as reliefs prayed for by one of the petitioners are quoted hereinbelow:

3. The petitioner of CWJC No. 9155 of 2013 has filed the present writ application for the following reliefs:

(i) For setting aside the impugned letter No.w/1-1/Dukan/(Annexure-4) issued by the senior section Engineer (Work), East Central Railway, Hajipur under his signature dated 18.02.13 where by information has been given to the Petitioner that 200 Sq.fit of Railway plot No.D/2-A at Jouhari Bazar, Hajipur already given to the Petitioner through the Agreement/Licence 01.02.1983 on (Annexure-1) for operating General store and Pan ki Dukan has been cancelled since 04.09.2002 and further directed to vacate the said plot within three days from date of its receiving.

ii) For set aside the letter No. w/1-1 Encroachment dated 11.04.2013 issued by the senior section Engineer (work), East Central Railway, Hajipur (Annexure - 6) whereby the Petitioner is directed to vacate the Railway Plot No D/2-A, before 30.04.2013 otherwise it will be vacated on 30.04.2013 by the Assistant Divisional Engineer (Line) Sonpur (Respondent No.7)

iii) For directing the Respondent authority to produce the order before the Hon'ble Court where



by aforesaid allotted plot of the Petitioner has been cancelled since 04.09.2002 and further be pleased to set aside the said order which has not been served to the Petitioner as yet.

iv) For directing the respondent authorities to produce the order/ letter before the Hon'ble Court by which licensee fee/rent of the serial plot/shop was enhanced retrospectively since 01.01.1996 (Not served) and after the further be pleased to set aside the same.

v) For directing the respondent authorities to refund the excess amount to the Petitioner which has been paid by the Petitioner due to revision of rent with retrospective effect from 01.01.1996 or to adjust the said amount in the future License fee.

vi) For restraining the respondent authorities to take any action pursuant to the impugned letters which contained in Annexure-4 and 6 to this writ petition and further be pleased to stay the same during pendency of this case.

vii) For grant of any other relief/reliefs as the Petitioner is entitled for in the eye of law.

4. As stated above the variation of only Railway Plot Number in each writ petition, are mentioned as below:

In CWJC No. 9097 of 2013: Railway Plot No. D/4

In CWJC No. 9156 of 2013: Railway Plot No. D/1-A

IN CWJC No. 9157 of 2013: Railway Plot No. D/1

In CWJC No. 9200 of 2013: Railway Plot No. D/2

5. In CWJC No. 9202 of 2013, Railway Plot no. as well as impugned letters are different, which are as follows:



Railway Plot No. B/40 Shop No. A/40, impugned letter No.w/214/HajipurDukan/Part-11/w-5/855 dated 6/13.0611 (Annexure-6) and impugned letter no. w/214/Hajipur/Dukan/Part-II/w-5/1365 dated 20.09.2012. (Annexure-7)

6. The brief facts culled out of petition are that on 01.02.1983 Licenses were made between the President of India representing the North Eastern Railway Administration acting through the District Engineer, North Eastern Railway Sonapur, who is the Licensor and the Petitioners being the Licensee by which 200 sq. ft. (Plot No. D/2A in CWJC No. 9155 of 2013, In CWJC No. 9097 of 2013: Railway Plot No. D/4, in CWJC No. 9156 of 2013: Railway Plot No. D/1-A, IN CWJC No. 9157 of 2013: Railway Plot No. D/1, In CWJC No. 9200 of 2013: Railway Plot No. D/2) and 160 sq. ft. land (shop) (in CWJC No. 9202 of 2013) at Jauhari Bazar, Hajipur for operating the shops of “General Store” and “Pan ki Dukan”. Pursuant to the aforesaid Agreements/Licenses the Petitioners are running the shops in the aforesaid land to the satisfaction of the administration, by paying annual rent of Rs 360/- per month since 01.02.1983. On 08.02.2010, the respondent authorities revised the rent of said shops, for Rs. 3780/- from 01.01.1996



and the Petitioners of (CWJC Nos. 9155 of 2013, 9097 of 2013, CWJC No. 9156 of 2013, and CWJC No. 9200 of 2013) and Rs. 3654/- to the Petitioner of CWJC No. 9157 of 2013 which was deposited by them on 08.02.2010. On 31.01.2007 the respondent demanded Rs. 20,237/- in CWJC No. 9202/2013, which was deposited by him on 31.01.2007. It is also the contention of the writ petitioners that no notices were issued to them prior to enhancement of rent inspite of the petitioners approaching the authorities several times. As demanded by the respondent authorities in terms of the said enhancement the Petitioners deposited the rent of the said shops as given in the writ petitions for the period of January 2010 to March 2011. The Petitioner submitted several representations to the respondent no 4 and lastly on 11.06.2011 requested them to serve the authority letter/Order whereby the rent of his shop was enhanced since 01.01.1996. On 21.02.13 the petitioners of all the writ petitions (except petitioner of CWJC No. 9202/2013) was served with the letter No. w/1-1/Dukan dated 18.02.2013 issued by the Senior Section Engineer (work) East Central Railway, Hajipur under his signature where by information was given to them that 200 sq.ft Railway plot Nos. as stated above at Jauhari Bazar, Hajipur which was given to them by License dated 01.02.1983



has been cancelled since 04.09.2002 and, therefore, they were directed to vacate the respective plots. In CWJC No. 9202 of 2013 all of sudden the petitioner came to know from Hindustan Daily News Paper dated 23.09.2012, whereby the shop license of the petitioner by Annexure 1 (lease Agreement/License) has been cancelled on 21.07.2011 by the Railway authority. As alleged by the respondents, the petitioner has never run liquor shop in spite of his license.

7. It is the contention of the learned counsel for the petitioners that the impugned order(s) are arbitrary and illegal in nature. The enhancement of license fee with retrospective effect for the last 16 years i.e. from 1996 is contrary to law and, therefore, prayed to set aside the impugned order(s) i.e. the order of cancellation(s) of the licence. It is further contended by the learned counsel for the petitioners that this Court was pleased to pass order in C.W.J.C. No 18673 of 2012 dated 04.10.2012 to the similarly situated persons by which the shop of the petitioners were not vacated and, therefore, prayed to pass the similar orders in their favour.

8. On the other hand a detailed counter affidavit has been filed by the respondents denying all the allegations made in the writ petitions. It is the specific contention in the counter



affidavit(s) that the licensor is required to be needed the Railway lands/ plots for construction of Railway accommodations /quarters/several offices for the officers of the Railways and, therefore, the Railways have the liberty to terminate the licence under Clause 11 of the agreement and, therefore, 30 days notices was issued to the petitioners which were received by one “Birju Kumar” on behalf of the petitioner(s) on 12.09.2002 (Annexure A) as well as on 11.4.2013 (Annexure 6) of the counter affidavit.

9. Clause 12 of the agreement specifically laid down that the privilege mentioned in Clause 1 of the agreement was granted on the express condition that either party will be at liberty to determine/put and end to the licence of the petitioner without assigning reason by giving notice to either party in any time in three calendar months. Further Clause 14 of the contract agreement laid down that the Railway administration may retake and absolutely retain possession of the aforesaid railway land plot in question as to transpire from Annexure 1 of the writ petitions itself. A notice vide letter No. W/214/Dukan/Hajipur/W5 dated 4.9.2002 has been issued to the petitioners which was received by one Birju Kumar and, therefore, prayed to dismiss the writ petitions as it is devoid



of merits.

10. Heard learned counsel for the petitioners as well as learned counsel for the respondents. Perused the records of the cases.

11. This Court initially has passed interim order dated 30.04.2013 directing the respondents not to take any coercive steps against the petitioners. Admittedly, the licence was granted to the petitioners way back in the year 1983 and the said licence was cancelled on 18.02.2013 and the petitioners are enjoying the properties of Railways by virtue of the interim order of this Court dated 30.04.2013.

12. Further no notice has been served on the petitioners of all the aforesaid writ petitions. The representations of the petitioners are pending with the respondents till day. Though contended in the counter affidavits that notices were served on one "Birju Kumar" there is no explanation from the respondents as to how "Birju Kumar" is capable of receiving notice on behalf of the different persons / petitioners. Furthermore, in the batch of cases, the counter of the respondents disclose that they served notice on Birju Kumar, though petitioners are different having licence for different Railway properties. Therefore, it can be construed that notices



were not served on the petitioners. Furthermore, no document is filed or produced before this court to show that the licence of each of the petitioner was cancelled by the respondents. As per Annexure 1 i.e. the agreement, 30 days prior notice has to be served on the petitioners. In the absence of any such documentary evidence, the petitioners cannot be thrown away from the respective land / shops allotted to them.

13. Therefore, the alleged notices i.e. Annexures 4 and 6 of CWJC Nos. 9155 of 2013, 9097 of 2013, 9156 of 2013, CWJC No. 9157 of 2013 and CWJC No. 9200 of 2013 and Annexures 6 and 7 of CWJC No. 9202 of 2013, for cancellation as well as for vacating the lands of the petitioners are, hereby, set aside with following observations and directions.

14. The matters are remanded back to the Respondents Railways to consider the case of each of the petitioner afresh on merits and in accordance with law, after issuance of fresh notice to the petitioners within 30 days from the date of receipt of the order. Further adequate opportunity has to be given for filing documents and written submissions and, thereafter pass a reasoned and a speaking order shall be passed in accordance with law, within a period of four months from the date of issuance of fresh notice(s) to the petitioners.



15. With the aforesaid observations, the writ petitions stand disposed off.

16. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

