

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 655 of 2021

M/s Hindustan Petroleum Corporation Limited, a Government Company, under Companies Act, 2013 having its Registered Office at 17, Jamshedji Tata Road, Church Gate, PO and PS-Marine-Lines, Mumbai-400020 through its Deputy General Manager-Retail and Duly Constituted Attorney, Shri Sumant Jha, aged about 46 years, son of late Balgovind Jha by occupation Service as Deputy General manager-Retail, Ranchi Retail Regional Office, Hindustan Petroleum Corporation Limited, 5th Floor, Maru Tower, Kanke Road, Ranchi, PO-Ranchi University, PS-Gonda, District-Ranchi.

... .. **Petitioner**

Versus

1. East Central Railway, a Government of India undertaking, through its General Manager, having his office at Hajipur Railway Headquarters, PO Hajipur Railway Headquarter & PS-Hajipur, Town Hajipur, District - Vaishali;

2. The Divisional Railway Manager, Dhanbad Division, East Central Railway, having his office at DRM Office, Dhanbad Railway Station, PO & PS - Dhanbad, District - Dhanbad;

3. Senior Divisional Engineer (Estate), Dhanbad Division, East Central Railway, having his office at DRM Office, Dhanbad Railway Station, PO & PS - Dhanbad, District - Dhanbad;

4. Assistant Engineer (I), Dhanbad Division, East Central Railway, having his office at DRM Office, Dhanbad Railway Station, PO & PS - Dhanbad, District - Dhanbad. ...

... .. **Respondents**

CORAM : HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner	: Mr. Rahul Gupta, Advocate : Mr. Rahul Lamba, Advocate : Mr. Nilesh Modi, Advocate : Mr. Aditya Mohan Khandelwal, Advocate
For the Respondents	: Mr. Anil Kumar, ASGI : Mr. Ravi Prakash, CGC

12/21.11.2024

Heard the learned counsels appearing on behalf of the parties.

2. This writ petition has been filed for the following reliefs:-

(a) For the issuance of an appropriate writ or writ in the nature of Certiorari for quashing the letter, dated 05.01.2021 and bearing reference No. L/1/Genl./License Fee, issued by the Respondent No.4 to the Petitioner (Annexure - 7) whereby the Respondents have arbitrarily, unreasonably and unlawfully directed the Petitioner to vacate the land, admeasuring an area of 8000 sq. ft, of

Railways which is under the possession and occupation of the petitioner since the year 1953 for running the Petrol Pump at Station Road, Dhanbad for the alleged reason of non-submission of the alleged outstanding license fee of Rs. 5,15,93,621/- and the Respondents vide the said letter dated 05.01.2021 have stated that in case if the petitioner fails to vacate the said premises/ Petrol Pump/ Retail Outlet, then the Respondents will evict the Petitioner from the said land.

(b) For the issuance of an appropriate writ or writ in the nature of Certiorari for quashing the letter, dated 25.08.2020 and bearing reference No. W466/license/HPCL/Station/DHN, issued by the Respondent No.3 to the Petitioner (Annexure - 5) whereby the Respondents have made arbitrary, unreasonable and unlawful demand of the alleged outstanding license fees of Rs. 2,64,67,320/- till the period 2019-20 from the Petitioner towards the land, admeasuring an area of 8000 sq. ft, of the Railway which is under the possession and occupation of the petitioner for running the Petrol Pump at Station Road, Dhanbad.

(c) For the issuance of an appropriate writ or a writ in the nature of Mandamus directing the Respondents to demand a reasonable and fair amount of rent/license fees for the period 2016-17 to 2019-20 or thereafter towards the concerned land on which the Petitioner is running a petrol pump at Station Road, Dhanbad since 1953 based on a valuation done by an independent valuer appointed by this Hon'ble Court or based on a valuation done by a valuer appointed by consent of the Petitioner and the Respondents.

(d) For the issuance of an appropriate writ or a writ in the nature of Mandamus directing the Respondents not to raise any demand upon the Petitioner for rent/ licensee fees in respect of the Concerned Plot for the period prior to 2015-16.

- (e) *For the issuance of an appropriate writ or a writ in the nature of Mandamus directing the Respondents not to raise any demand upon the Petitioner for rent/ licensee fees in respect of the Concerned Plot which demand is unreasonable and not a fair value or which is not as per the mutual agreement between the Petitioner and the Respondents.*
- (f) *For the issuance of any other appropriate writ or order(s) as Your Lordships may deem fit and proper for doing conscionable justice to the Petitioner.*
- (g) *For the issuance of an interim order directing the Respondents not to take any coercive steps against the Petitioner till the pendency of this writ petition.*

Arguments of the Petitioner.

3. Learned counsel for the petitioner submits that the petitioner is in occupation of the property involved in the present case since 1953 which was renewed by way of license every year and the last renewal was till March 2016 and there has been no further renewal. However, the petitioner continued to occupy the property and the cause of action to move this court arose when a letter dated 25.08.2020 was issued to the petitioner under the subject “*Realisation of outstanding license fee amounting to Rs. 2,64,67,320 on account of using Railway land measuring 8000 Sqr. Ft. for HPCL petrol pump at Dhanbad*” and it has been mentioned that the petitioner has not deposited any amount after 2015-16. The outstanding dues was calculated up to 2019-20. A request was also made to the petitioner process for renewal of license agreement as per Railway Board norms. Along with the said notice, a chart was given with regard to the accounts between the parties right from 1953-54.

4. The learned counsel submits that pursuant to the said letter the petitioner issued a letter dated 09.09.2020 mentioning therein that the petitioner had not received any demand notice since 2016-17 for renewal of license and the demand raised by the respondents towards

renewal of license was deposited in the previous years in the following manner.

Year	Annual License Renewal Fee (Rs.)
2011-12	20645
2012-13	45212
2013-14	74274
2014-15	108478
2015-16	132640

5. The petitioner sought information with regard to the basis of which outstanding license fee amount was calculated which according to the petitioner was on higher side and a request was made to raise fresh demand towards renewal of license in line with the previously paid rentals and to enable them to renew the license.

6. The learned counsel submits that no response was received to the said letter dated 09.09.2020 and the petitioner was surprised to receive another letter dated 05.01.2021 wherein the demand was increased to Rs. 5,15,93,621.13 and it was titled as “Quit notice.”. He submits that it was mentioned therein that a quit notice was being issued for removal from Railway land and to hand it over to the Railway Authority within seven days on receipt of the letter failing which Railways would be bound to evict the petitioner from the Railway land as per rule. The learned counsel submits that a representation dated 08.01.2021 was filed under speed post but no response having been received the petitioner rushed to this court by filing a writ petition on 15.02.2021.

7. The learned counsel has also submitted that an interim order dated 15.03.2021 was also passed in favour of the petitioner by observing that no coercive steps be taken against the petitioner pursuant to the impugned letter dated 05.01.2021 till the next date fixed in the matter. Interim order was also continued vide order dated 02.02.2023 and ultimately the matter was taken up on 28.08.2024 and now the case is being heard by this Court.

8. The learned counsel submits that the action of the respondents is ex-facie arbitrary in as much as initially a demand of Rs. 2.64 crores and odd was raised on 25.08.2020 which was increased to 5.15 crores

and odd on 05.01.2021 and the subsequent demand was not even supported by any calculation sheet. It was also submitted that against the initial demand dated 25.08.2020 the representation was made but no response was received. The learned counsel submits that the action of the respondent Railways being arbitrary, appropriate order in terms of the relief prayed for in this writ petition be passed.

Arguments of the respondents.

9. The learned counsel appearing on behalf of the respondents while opposing the prayer of the petitioner has submitted that so far as the quantification of the dues is concerned, a chart was already provided to them along with the letter dated 25.08.2020 and the petitioner raised a grievance in connection with the subsequent 'quit notice' dated 05.01.2021 vide letter dated 08.01.2021 with a request to fix an appointment and grant them an opportunity of hearing so that the dispute could be settled. They had requested to fix a date for hearing on 11.01.2021 and rushed to this Court by filing a writ petition.

10. The respondents have also submitted that it is not in dispute that after March, 2016 there has been no renewal of license and the petitioners are in possession of the property. There has been subsequent development in as much as the Railways are in dire need of the property for the purposes of expansion and consequently an interlocutory application has been filed being I.A. No. 8310 of 2024 for vacating the interim order. The need of the Railway has been reflected in paragraph 8 of the interlocutory application wherein it has been stated that the land being occupied by the petitioner is adjacent to Dhanbad main Railway Station which is required for Re-development of the Dhanbad Railway station under '*Amrit Bharat Mahotsav*' scheme in the mass public interest and the location of the land of the petrol pump comes within the area of re-development of Dhanabad Railway station which is also apparent from the proposal of the scheme. The proposal of the scheme has been annexed as Annexure-D to the interlocutory application. The learned counsel submits that the interlocutory application was filed way back as on 06.02.2024. This

aspect of the matter on the one hand is supported by documents and has not been denied by the petitioner.

11. The learned counsel submits that so far as accounting part is concerned, that can be taken care of by the respondent no. 2 but so far as vacating the premises is concerned, it is a distinct matter and it should be left upon the respondents keeping them free to take steps in accordance with law.

Findings of this court.

12. It is not in dispute that the license was not renewed beyond march 2016 and the petitioner/or the person said to be authorized by the petitioner remained in occupation of the property. The demand of Rs. 2,64,67,320/- was issued by the respondent Railways alleging to be dues up to 2019-2020 and a request was also made to process for renewal of license agreement as per Railway norms. This letter was issued on 25.08.2020 (Annexure-5). However, no renewal was done and the petitioner had protested against the demand vide letter dated 09.09.2020 and a request was also made to raise fresh demand towards renewal of license in line with the previously paid rentals so that the license could be renewed. Soon thereafter a 'quit notice' was issued to the petitioner dated 05.01.2021 asking the petitioner to remove and hand over the property within seven days. This time the demand was to the extent of Rs. 5,15,93,621.13 which was not supported by any calculation. Although there was enormous increase in the demand as compared to that what was mentioned in letter dated 25.08.2020, the fact remains that the license still has not been renewed.

13. The petitioner had protested to the aforesaid notice vide letter dated 08.01.2021 seeking an appointment on 11.01.2021 but the said letter itself was posted on 12.01.2021 and the writ petition was filed on 15.02.2021 and interim order was also passed by this court on 15.03.2021 by virtue of which the petitioner has remained in possession of the property. It is not clear from the records as to whether any further payment has been made by the petitioner.

14. This court finds that there has been subsequent development and the Railway through the interlocutory application has indicated

that the land being occupied by the petitioner is required for expansion of the railway station.

15. This court finds that the entire aspect of the matter revolves around two issues; one is relating to eviction of the petitioner and the other is regarding the settlement of account between the petitioner and the respondent. The impugned order reveal that the 'quit notice' was primarily issued on account of non-payment of amount. This court is of the view that the increase of demand from letter dated 25.08.2020 at Rs. 2.64 crores and odd to 5.15 crores and odd vide letter dated 05.01.2021 remains unexplained and such dispute regarding accounting cannot be resolved through writ jurisdiction. In fact, the petitioner themselves had sought for an appointment for the purposes of hearing and resolution of dispute vide their letter dated 08.01.2021 and apparently the same could not be done due to the pendency of the present writ petition and the interim order having been passed way back in the month of March 2021 itself.

16. This court is of the view that the matter regarding accounting is required to be looked into by the respondent no. 2 who is also required to give an opportunity of hearing to the petitioner. The detailed representation has already been placed on record. It will be opened to the petitioner to file a fresh representation along with the copy of the writ records and all the supporting documents before the respondent no. 2 within a period of 15 days from today. The respondent no. 2 shall examine the objection of the petitioner with regards to demand made vide Annexure-5 and also Annexure-7.

17. Upon their appearance, the respondent no. 2 shall also verify the records and give an opportunity to the petitioner to inspect the records available with the Railways. The petitioner would also be at liberty to file written notes of arguments before the respondent no. 2 so that the matter is ultimately resolved. The respondent no. 2 shall also grant an opportunity of hearing before passing the reasoned order. The reasoned order be passed within a period of one month from the date of appearance of the petitioner.

18. So far as the point of eviction is concerned, this court is of the view that there has been subsequent development and the point of eviction which has been raised through the interlocutory application stand on a different footing altogether and the same is not raised on account of non-payment of any dues.

19. In such circumstances, it will certainly be opened to the respondent Railways to take steps with regard to the eviction of the petitioner in accordance with law.

20. Interim order, stands vacated.

21. This writ petition is disposed of in the aforesaid terms.

(Anubha Rawat Choudhary, J.)

Binit