

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.2861 of 2006

Union of India through the East Central Railway; having its office at Hazipur, through Chief Commercial Manager, Sri Girja Nandan Singh, son of late Birbal Pd. Singh, resident of 5th Flr. Ganga Mahal, J.C. Road, Patna-1. (Bihar).

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Petitioner

Versus

1. The Railway Rates Tribunal of India, through its Registrar, having its office at Chennai, Tamil Nadu.
2. The Hindalco India Ltd. P.O. Renukoot, Dist. Sonebhadra, U.P. through Senior Vice President (Legal), Sri K.N. Srivastava or his successor-in-office C/o Hindalco India Ltd. P.O. Renukoot, District Sonebhadra, Uttar Pradesh

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Respondent

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Petitioner	: Mr. Anil Kumar, Add. S.G.I.
	: Mrs. Nitu Sinha, C.G.C.
For the Respondents	: Mr. Indrajit Sinha, Advocate
	: Mr. Ankit Vishal, Advocate
	: Mr. Rishav Kumar, Advocate

19/Dated: 11th December, 2024

This writ petition is under Article 227 of the Constitution of India, whereby, the order passed by the Railway Rates Tribunal dated 11.08.2005 passed in Complain No.3/2000 is under challenge, by which, three conclusions have been arrived at, i.e.,

- (a)** The license fee of Rs.1,18,021/- arrived at by the respondents for 1998 on the basis of land value of Rs.3,032/- per decimal for T and-I given in the certificate

dated 2.2.1998 in respect of the whole of 5.19 acre is reasonable.

(b) The action of the Respondents to increase the base value of the land so fixed, every year on the 1st of April, starting from 1.4.1986, at the rate of 10% over the previous year's value to arrive at the land value for the following year successively based on which the license fee to be paid, shall be fixed is unreasonable.

(c) In the circumstances of the case, it would be reasonable to revise license fee at the end of a block period of every three years taking into account the rise in prices of the land or escalation of market value and also keeping in view the guidelines in Para 4.1 of the Board's Circular dated 29.08.1995.

2. The writ petitioner, Railway has challenged the said order being aggrieved with the conclusion as arrived at paragraph-31(b), wherein, the finding has been recorded that the license fee which has been decided to be calculated on the basis of the rate prevalent as on 01.04.1996 has been held to be unreasonable. The said part of the order is under challenge in this writ petition.

3. The brief facts of the case as per the pleading made in the writ petitioner, required to be enumerated, which reads as under.

The petitioner is central government department being East-

Central Railways having its Head Office at Hazipur, Bihar and amongst others have got its Head Office at Dhanbad.

The respondent No. 2 is a limited company, registered under the Company's Act having its works and registered office at Renukoot in the district of Sonbhadra, Uttar Pradesh, engaged in the business of manufacturing of Aluminium.

On the application of Respondent No. 2 made to the petitioner, the petitioner was pleased to give one Licence of 5.19 acres of land at Meralgram Railway Station, a renewable licence fee of Rs. 1,29,823.00 based on 1998 market value with the stipulation that the licence fee is renewable every year as per the Rule of the Railways.

After the end of the first year, the petitioner revised the demand of Rs. 1,46,741/- on the basis of 10% notional increase of land value.

The respondent No. 2 challenged the annual increase as well as method of valuation of the land for determination of licence fee before the Railway Rates Tribunal of India at Chennai.

The petitioner appeared before the Tribunal and filed its Show Cause stating therein, inter alia that the value adopted for the land in question for determination of licence fee is proper in view of user of land to be commercial purpose meant for loading bauxite mines etc. by Respondent No. 2 for transportation by the Railways to its works at Renukoot, Uttar Pradesh. So far as 10% notional increase adopted for valuation of land for only revision of licence fee is concern, the same is as per direction of the Railways Board as contained in its Circular dated 29.08.1995 which is reasonable and binding on the petitioner.

The petitioner vide letter dated 05.07.1999 sanctioned the Respondent No. 2 an allotment by Rlys. Land as commercial plot

for staking and loading of Bauxite from line No. 5 at Meralgram Railways Station at Licence Fee of Rs. 1,39,823/- along with security deposit of equal amount also contain stipulation that the fee mentioned in professional and is likely to be revised based market value of the land.

The respondent No. 2 at no point of time ever entered into any agreement with the present petitioner but on the other hand on being asked to sign an agreement according to the rules, was directed to execute an agreement on a stamp paper worth Rs. 4395/- for execution of the agreement. That however, instead of adhesive stamp of Rs. 4395/- Opp. party No. 2 executed an agreement on a stamp paper worth Rs. 10/- which was never signed from the side of the present petitioner at any point of time and only on this basis without any agreement it is continuing its work.

After hearing the parties, the Tribunal was pleased to hold that in view of the commercial use of Rly. land directly connected to its main portion of transportation, the valuation has been fixed on the basis of value of land received from the office of the District Sub-Registrar, Garhwa, its reasonable and proper.

While deciding the question of annual increment by 10% in value of the land, the Tribunal observed that the Rly. Board's circular proceeds on the basis of that the value as far 1985 is determined by the Revenue Authority was only available at the time of issuing the circular. That is why, step up 10 % for each year over the previous year valuation have been advised. Otherwise, there is of sanctity attached to the year 1985 or the year 1998. At the time of consideration of the application of Respondent No. 2 the land value for 1998 was available as obtained from the District Sub-Registrar by Railways. It does not require much reflection to provide that the actual values are

better than Notional Values. Here the actuals for 1998 are more appropriate than a Notional Value to be arrived the actuals for 1985/1995 as based and applying 10% step up for each of the subsequent year, hence, action of the petitioner in considering the land value for 1998 as based cannot be said unreasonable.

The Tribunal further hold that there is an element of guess work inherent in most cases involving determination of the market value and that by the very nature of thing. But the increase is not same to state that there can be a mandate for an uniform increase of a particular percentage of the based value for all or over one of the succeeding year without any limit whatsoever a provision for such a constant and consistent increase, de hors any material evidence whatsoever to substantiate any justification for such a mandatory increase every years as such, the rate would per se be ante thesis of unreasonableness and would enevitably in the long run become reasonable and on its own.

4. Learned counsel for the parties, have argued the case at length. However, in course of argument, learned counsel appearing for the writ petitioner-Railway has placed subsequent policy decision dated 10.02.2005 issued by the Railway Board, addressed to the General Managers, All Indian Railways & Productions Units, whereby and whereunder, the Policy decision which earlier was invoked, i.e., Policy decision dated 29.08.1995 has been decided to be superseded and has been made effective w.e.f. 01.04.2004.

5. It has been submitted by virtue of the aforesaid policy decision has also been taken as per the Clause 10 of the policy for settlement of

the pending cases.

6. The stipulation has been made under the said clause that the decision has been taken to withdraw the retrospective effect of orders dated 29.08.1995, thus, the orders of August 1995 would be made applicable for the period 1995-96 on wards and not for the earlier period i.e., from 01.04.1986 to 31.03.1995. Any recovery already effected for the period between 01.04.1986 to 31.03.1995 need not be refunded in cash but should be adjusted against future payments due from the concerned party. Arrears of land license fee may be recovered in easy installments.

7. The copy of the same has also been handed over to Mr. Indrajit Sinha, learned counsel appearing for the respondents.

8. Although, both the parties have agreed that since as per the policy decision dated 10.02.2005, the settlement of the pending cases has also been taken into consideration and as such, the dispute with respect to the liability which has been casted upon the respondent concerned, for which, the litigation was initiated by filing application before the learned Railway Tribunal has got every possibility of its settlement.

9. Hence, he, on instruction of his litigant, respondent has submitted that the respondent concerned may be given liberty to approach before the concerned authority for settlement of the claim in view of the applicability of the new policy decision.

10. Learned Addl. S.G.I. appearing for the petitioner, upon such

submission, is fair enough to admit the fact about the issue of settlement of the pending cases in view of the supersession of the earlier policy decision by the new policy decision dated 10.02.2005.

11. This Court, in view of the aforesaid and taking into consideration the fact that after the aforesaid policy decision dated 10.02.2005 as also keeping the fact into consideration that the policy decision dated 29.08.1995, based upon that, the learned Tribunal has passed an order and the parties since are ready to approach to the authority for settlement of the pending cases, hence, is of the view that the matter needs to be disposed of with such liberty on the basis of the concession given by the learned Addl. S.G.I with respect to the issue of settlement.

12. Considering the same, the respondent concerned is at liberty to approach before the concerned competent authority by raising all the grievances.

13. Since the order is being passed on consent of the petitioner and as such, endeavour, be taken for settlement of the issue as per law in view of the policy decision regarding the settlement of the *lis*.

14. With the aforesaid observations/directions, the instant writ petition stands disposed of.

(Sujit Narayan Prasad, J.)

(Navneet Kumar, J.)