

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8990 of 2019

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Shreyaa Agro Food a Proprietorship Firm having it's Place of business at 2250, Ground Floor, Gali Raghunandan, Naya Bazar Delhi- 6 through its authorized representative namely Sanjit Kumar Tiwari Son of Raj Narayan Tiwari, Resident of 7, East Khanpukur Lane, P.O. Angus, P.S. Bhadreswar, District- Hoogly (West Bengal)- 712221

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railways New Delhi.
2. The General Manager, East Central Railway, Zonal Office Hazipur, Vaishali.
3. The Principal Chief Commercial Manager/FM, East Central Railway, Zonal Office Hazipur, Vaishali.
4. The Chief Commercial Manager/FM, East Central Railway, Zonal Office Hazipur, Vaishali.
5. The Deputy Chief Commercial Manager/FM, East Central Railway, Zonal Office Hazipur, Vaishali.
6. The Senior Divisional Commercial Manager, Sonepur Division, East Central Railway, Zonal Office Hazipur, Vaishali.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 9629 of 2019

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Krishna Enterprises a proprietorship firm having its place of business at 2244, Second Floor, Gali Raghunandan, Naya Bazar, Delhi-6 through its authorized representative namely Sanjay Kumar Agarwal (Sultania) male aged about 50 years son of Shri Ghasi Ram Agarwal (Sultania) Resident of Bara Bazar, P.O. and P.S.- Katihar, District- Katihar- 854105.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railways New Delhi.
2. The General Manager, East Central Railway, Zonal Office Hazipur, Vaishali.
3. The Principal Chief Commercial Manager/FM, East Central Railway, Zonal Office Hazipur, Vaishali.
4. The Chief Commercial Manager/FM, East Central Railway, Zonal Office Hazipur, Vaishali.
5. The Deputy Chief Commercial Manager/FM, East Central Railway, Zonal Office Hazipur, Vaishali.
6. The Senior Divisional Commercial Manager, Sonepur Division, East Central



Railway, Zonal Office Hazipur, Vaishali.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10368 of 2019

Surya Sales Corporation a proprietorship firm having its place of business at 2250, Ground Floor, Gali Raghunandan, Naya Bazar, Delhi-6 through its authorized representative namely Dhananjay Kumar Choudhary male aged about 20 years son of Ram Sharan Choudhary resident of College Road, Verma Nagar, P.O. and P.S.- Kaithar-854105

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railways New Delhi
2. The General Manager East Central Railway, Zonal Office Hazipur, Vaishali
3. The Principal Chief Commercial Manager/FM East Central Railway, Zonal Office Hazipur, Vaishali
4. The Chief Commercial Manager/FM East Central Railway, Zonal Office Hazipur, Vaishali
5. The Deputy Chief Commercial Manager/FM East Central Railway, Zonal Office Hazipur, Vaishali
6. The Senior Divisional Commercial Manager Sonapur Division, East Central Railway, Zonal Office Hazipur, Vaishali

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13795 of 2019

Sanjay Enterprises a Proprietorship firm having its Palce of Business at 2250, Ground Floor, Gali Raghunandan, Naya Bazar, Delhi-6 through its authorized representarive namely Umang Aggarwal male aged about 29 Years Son of Vinod Aggarwal resident of 85, East, Friend Encalave, Sultanpuri, B Block, delhi-86

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railways New Delhi
2. The General Manager, East Central Railway, Zonal Officer, Hazipur Vaishali
3. The principal Chief Commercial Manager /Fm, East Central railway, Zonal Office Hazipur, Vaishali
4. The Chief Commercial Manager /Fm, East Central Railway, Zonal Office Hazipur, Vaishali
5. The Deputy Chief Commercial Manager /Fm, East Central railway, Zonal



Office Hazipur, Vaishali

6. The Senior Divisional Commercial Manager, Sonapur Division, East Central Railway, Zonal Officer Hazipur, Vaishali

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 8990 of 2019)

For the Petitioner/s : M/s Gautam Kumar Kejriwal

Aditya Raman

Mukund Kumar

Akash Kumar, Advocates

For the Union of India : M/s Subodh Kumar Jha, Sr.CGC

Railway Punam Kumari Singh, CGC

Rinki Kumari, Advocate

(In Civil Writ Jurisdiction Case No. 9629 of 2019)

For the Petitioner/s : M/s Gautam Kumar Kejriwal

Aditya Raman

Mukund Kumar

Akash Kumar, Advocates

For the Respondent/s : Mr. Anshay Bahadur Mathur, CGC

(In Civil Writ Jurisdiction Case No. 10368 of 2019)

For the Petitioner/s : M/s Gautam Kumar Kejriwal

Aditya Raman

Mukund Kumar

Akash Kumar, Advocates

For the Respondent/s : Mr. Ram Anurag Singh, CGC

(In Civil Writ Jurisdiction Case No. 13795 of 2019)

For the Petitioner/s : M/s Gautam Kumar Kejriwal

Aditya Raman

Mukund Kumar

Akash Kumar, Advocates

For the Respondent/s : Mr. Ram Anurag Singh, CGC

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 07-04-2025

1. At the outset, it is relevant to mention here that a preliminary objection has been raised by the Learned counsel for the Railways that the matters are required to be heard before the Division Bench as the petitioner(s) have challenged the Circulars of the Railway Board in all the



aforesaid Writ petitions. At this juncture, the Learned counsel for the petitioner(s) submitted that they have made alternative prayers in these cases and, therefore, they intend to withdraw the prayer for quashing of the Circulars. Accordingly, the Learned counsel for the petitioner(s) was directed to make an endorsement in the Writ petition, wherein the Circulars have been challenged, so as to enable this Court to further proceed in the matters. In view of the aforesaid, the petitioner(s) have withdrawn the reliefs (a) and (b) of all the aforesaid Writ petitions.

2. In all the four Writ petitions the reliefs sought for by the the petitioners are similar, which are as follows:

“c) For issuance of a Writ in the nature of mandamus as directing respondents specially the respondent number 2 to 6 to refund the difference of penal demurrage charges recoverable from the petitioner as per the impugned rate Circular dated 18.03.2019 and 29.03.2019 to that recoverable in



terms ECR/CRM/FMS/02/GS/Misc. of Circular number dated 10.09.2018 (hereinafter referred to as the Circular dated 10.09.2018 for short) issued by the Respondent Principal Chief Commercial Manager on account of the impugned rate Circular dated 18.03.2019 and 29.03.2019 being not applicable to the case of the petitioner or In The Alternative;

d) For holding and a declaration that the impugned rate Circular dated 18.03.2019 as well as the Circular dated 29.03.2019 would be prospective in operation and would not apply retrospectively to the indent registered on or before expiration of 48 hours of publication of the said Circulars in the respective divisions;

e) For holding and a declaration that the impugned rate Circular dated 18.03.2019 as well as the Circular dated 29.03.2019 being penal in nature and carrying the effect of enhancement of penal consequences ought to have preceded by due notice upon the parties bound to be affected by such variation/alteration in the



penal consequences and as such both the Circulars suffers from violation of principles of natural justice:

f) For holding and a declaration that the impugned Circular dated 29.03.2019 is not sustainable for another vital and relevant reason of there being no registration of indent having taken place between 18.03.2019 till 29.03.2019 inviting application of such harsher conditions of complete reduction of stacking period coupled with imposition of extreme penal demurrage charges of 6 times the normal charges;

g) For holding and a declaration that the petitioner having registered indent before the impugned rate Circular dated 18.03.2019 was issued and published the case of the petitioner would be governed and guided by the Circular number ECR/CRM/FMS/02/GS/Misc. dated 10.09.2018 as the petitioner having relied upon the said Circular consisting of all parameters of penal consequences in case of no loading of wagons had registered indent with the respondent East Central Railway;



h) For holding and a declaration that the impugned Circulars dated 18.03.2019 and 29.03.2019 cannot be made retroactive in operation and cannot apply against the indent registered by the petitioner much prior to the issuance and publication of the said impugned Circulars;
i) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of the case."

3. At this juncture, the Learned counsel for the petitioners contended that this Court has already decided a similar matter in which the reliefs as prayed for, in these Writ petitions were exactly the same, therefore prayed that since these matters are squarely covered under the order dated 15.02.2025 passed in **CWJC No. 8971 of 2019 (Thakurji Enterprises Vrs. The Union of India & Ors.)**, these writ petitions may also be disposed of on the same terms and conditions.

4. The Learned Counsel for the



respondents submits that these Writ petitions may be disposed of on the same terms and conditions as outlined in the aforesaid judgment.

5. Having regard to the submissions made by the Learned counsel for the petitioners, all aforesaid four Writ petitions stands disposed of in terms of the judgment passed in **CWJC No. 8971 of 2019 (supra)**.

6. Therefore, I direct the respondents to refund Rs. 7,62,300 to the petitioner of CWJC No. 8990 of 2019 (Shreya Agro Food), Rs. 10,42,500/- to the petitioner of CWJC No. 9629 of 2019 (Krishna Enterprises), Rs. 61,200/- to the petitioner of CWJC No. 10368 of 2019 (Surya Sales Corporation) and Rs. 13,82,100/- to the petitioner of CWJC No. 13795 of 2019 (Sanjay Enterprises) forthwith, which represents the excess demurrage recovered for the rakes not loaded by the petitioner(s) due to unavoidable reasons. This Court is also of the considered view that the impugned Rate Circulars dated 18.03.2019 and 29.03.2019 shall operate prospectively not retrospectively.



21. With the aforesaid observations, the
Writ petition stands disposed of.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2025
Transmission Date	

