

GAHC010034602024



**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/864/2024**

MANOJIT DAS GUPTA  
S/O- BINODE BEHARI DAS GUPTA, R/O- RGBS ROAD, BYE LANE NO. 4,  
BINOVA NAGAR, KAHILIPARA, GUWAHATI-18, KAMRUP(M), ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS.  
REPRESENTED BY ITS SECRETARY, MINISTRY OF RAILWAY, RAIL  
BHAVAN, RAISINA ROAD, NEW DELHI-1.

2:THE NORTH EAST FRONTIER RAILWAY  
MALIGAON  
REPRESENTED BY ITS GENERAL MANAGER  
MALIGAON  
GUWAHATI-781011  
KAMRUP(M)  
ASSAM

3:THE GENERAL MANAGER  
HE NORTH EAST FRONTIER RAILWAY  
MALIGAON  
GUWAHATI-781011  
KAMRUP(M)  
ASSAM

4:THE RAILWAY LAND DEVELOPMENT AUTHORITY  
REPRESENTED BY ITS CHAIRMAN  
UNIT NO. 702-B  
7TH FLOOR  
KONNECTUS TOWER-2  
DMRC BUILDING  
AJMERI GATE

DELHI-110002

**Advocate for the Petitioner : MR. S SAIKIA**

**Advocate for the Respondent : DY.S.G.I.**

**BEFORE  
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 06-05-2024**

Heard Mr. B. Sinha, learned counsel for the petitioner and Mr. K. Gogoi, learned CGC for all the respondents.

2. The petitioner has instituted the writ petition under Article 226 of the Constitution of India seeking to invoke the extra-ordinary and discretionary jurisdiction of this Court to assail an Order bearing no. W/69/Misc/MLG/W-4 [Loose] dated 02.02.2024 [Annexure-J] passed by the respondent no. 3. By the said Order dated 02.02.2024, the respondent no. 3 has rejected a Representation submitted by the petitioner pursuant to a common Judgment and Order dated 22.08.2023 passed by this court in two writ petitions, viz. [1] W.P.[C] no. 2016/2014 [Dilip Kumar Das vs. Union of India and others] and [2] W.P.[C] no. 2017/2014 [Sri Manojit Das Gupta vs. Union of India and others].

3. The petitioner's claim, in brief, is that he had been running business in the form of a stationary shop on and from a plot of land measuring 5.50 X 3.05 Sq.metres being plot no. 7 Cat-III, Plane No. T/5/2012, situate at West side of Guwahati Railway Station and covered by Dag no. 3189 at Revenue Village – West side Guwahati Railway Station, Mouza – Jalukbari, Kamrup [M], Guwahati. In the year 2006, the Principal Chief Engineer, N.F. Railway vide his Communication bearing no. W/350/3/MP/21/06/W-7 dated 02.11.2006, observing that there were some unauthorised occupations on railway lands in Pandu and Maligaon areas of Guwahati, had observed further that either such unauthorised construction should be removed or in the alternative, the same should be regularized as per the policy of the

Railways to get revenue. It was noted that a report showed some constructions had been made and if the railway lands were not required, the Railways could collect license fees from those persons, who were in occupation of the Railway lands. The said matter did not culminate into any decision.

4. In the year 2012, the petitioner was served with a Show Cause Notice dated 29.05.2012 under Section 4 of the Public Premises [Eviction of Unauthorised Occupants] Act, 1971 ['the 1971 Act' and/or 'the Act, 1971', for short]. The petitioner submitted a Reply to the said Show Cause Notice on 12.06.2012 and prayed that he should be allowed to continue his business from the subject-plot by issuing a licence in his favour. The Estate Officer, N.F. Railway after hearing the parties, rejected the prayer vide an Order dated 12.06.2012 in exercise of power conferred by Section 5 of the 1971 Act. Aggrieved by the Order dated 12.06.2012 passed by the Estate Officer, N.F. Railways, the petitioner preferred an appeal under Section 9 of the 1971 Act before the learned District Judge, Kamrup [M], Guwahati. The appeal preferred by the petitioner was registered and numbered as Misc.Appeal no. 11/2012. The Court of learned Additional District Judge No. 2, Kamrup [M], Guwahati heard four similar appeals including Misc.Appeal no. 11/2012 and disposed of all the four appeals by a common Judgment and Order dated 10.03.2014 affirming the Orders passed by the Estate Officer, N.F. Railway for eviction. The appellants including the present petitioner, were directed to vacate the Railway lands under their respective possession within a period of 30 days from the date of the Judgment and Order dated 10.03.2014.

5. Aggrieved by the Judgment and Order dated 10.03.2014 passed in Misc.Appeal no. 1/2012, the petitioner herein preferred a writ petition, W.P.[C] no. 2017/2014 [Sri Manojit Das Gupta vs. Union of India and others]. It is pertinent to mention that another writ petition, W.P[C] no. 2016/2014 [Dilip Kumar Das vs. Union of India and others] was preferred by the appellant in Misc.Appeal no. 10/2012, which appeal was also dismissed by the common Judgment and Order dated 10.03.2014.

6. The two writ petitions, W.P[C] no. 2016/2014 and W.P.[C] no. 2017/2014 preferred by the present petitioner, came up for consideration on 22.08.2023 and after hearing, both the

writ petitions were disposed of by a common Judgment and Order dated 22.08.2023 finding no infirmity in the Orders dated 12.06.2012 passed by the Estate Officer, N.F. Railway and the common Judgment and Order dated 10.03.2014 passed by the learned Additional District and Sessions Judge [FTC] no. 1, Kamrup [M], Guwahati.

7. It is apposite to extract the relevant excerpts from the common Judgment and Order dated 22.08.2023 passed in W.P.[C] no. 2016/2014, and W.P.[C] no. 2017/2014, for ready reference :-

*8. The fact that the Lands in question belong to the NF Railway is not in doubt as it is an admitted fact as could be even seen from the reply so submitted by the petitioners before the Estate Officer. Under such circumstances, this Court finds no infirmity in the orders dated 12.06.2012 passed by the Estate Officer, NF Railway against the petitioners as well as also the common judgment and order dated 10.03.2014 passed by the Learned Additional District & Sessions Judge (FTC) No.1, Kamrup at Guwahati.*

*9. Mr. B. Sinha, Learned counsel for the petitioners however submitted that the petitioners have been doing their business for the last 30 years and as per the reports submitted by the Officials of the Respondents have been the reference to which have been supra, the officials of the respondent Railways have themselves admitted that the petitioners can be granted licence. He submitted that the petitioners may be given the liberty to submit their representation to the respondent authorities so that they may consider their representation taking into account that for more than 30 years the petitioners have been carrying their business establishments and the entire livelihood of the petitioners as well as the family depends on the said business. This Court has given due and anxious consideration to the said matter and have also perused the material on record which also shows that some of the officials of the respondent Railways have recommended that the petitioners and similarly situated persons could be accommodated by giving them the licence so that the Railways does not lose the revenue. Taking into account the above, this Court, therefore, without interfering with the order passed by the Estate Officer, NF Railway dated 12.06.2012 as well as also the*

*judgment and order dated 10.03.2014 passed by the Learned Additional District & Sessions Judge (FTC) No.1, Kamrup in Misc. Appeal No.10/2012 and Misc. Appeal No.11/2012 disposes off both the writ petitions by granting liberty to the petitioners to submit representations before the General Manager, NF Railways. Mr. B. Sinha, Learned counsel for the petitioners submits that the said representations shall be submitted within 15 days from today.*

*10. Taking into account the above, this Court, therefore, requests the General Manager of the NF Railways to consider the representations if so submitted by the petitioners, compassionately and if permissible as per the extant Rules as well as the policies of the Railways.*

8. Thus, from the above, it is noticed that while dismissing the petitioner's previous writ petition, W.P.[C] no. 2017/2014, liberty was granted to the petitioner to submit a Representation and a direction was made to the respondent no. 3 to consider the Representation *inter alia* as per the extant rules and policies of the Railways.

9. It was pursuant to the observations made in paragraph 9 & 10 of the common Judgment and Order dated 22.08.2023, the petitioner submitted a Representation on 06.09.2023 with the prayer to grant him licence and lease of the land under his possession. The petitioner's said Representation, submitted on 06.09.2023, has been rejected by the impugned Order dated 02.02.2024.

10. Being aggrieved by the rejection of his representation dated 06.09.2023, the petitioner has instituted the instant writ petition.

11. Subsequent to the common Judgment and Order dated 22.08.2023 [supra], the writ petitioner in W.P.[C] no. 2016/2014 had also preferred a writ petition, W.P.[C] no. 1608/2024 to challenge an Order dated 19.02.2024 passed by the respondent no. 3, whereby, the said writ petitioner's Representation dated 06.09.2023, seeking grant licence and lease of a Railway plot of land, was rejected. A coordinate bench of this Court by an Order dated 20.03.2024 has dismissed the said writ petition, W.P.[C] no. 1608/2024 with the following observations :-

10. As can be seen from paragraph nos.8 & 9 of the judgment and order dated 22.08.2023 passed in WP(C) No.2016/2014, this Court has upheld the order dated 12.06.2012 passed by the Estate Officer, NF Railway as well as the judgment and order dated 10.03.2014 passed by the Learned Additional District Judge No.2, Kamrup(M), Guwahati in Misc. Appeal No.10/2012. Further, the petitioner's representation dated 06.09.2023 has also been rejected. The judgment and order dated 22.08.2023 passed in WP(C) No.2016/2014 has attained finality as on date and the same has not been put to challenge by the petitioner. In that view of the matter, this Court does not find any ground to allow the present writ petition.

12. In the Order dated 02.02.2024, the respondent no. 3 has *inter alia* observed that as per the extant rules and policies of the Railway, there is no provision for granting fresh licence or lease of the plot of land, belonging to the Railways, under possession of the petitioner/private party, on payment of necessary fees. The petitioner's Representation dated 06.09.2023 has, thus, been rejected. Learned counsel for the petitioner has not been able to show anything that there is extant rules or policy of the Railways, which permits grant of any licence or lease. The Judgment and Order dated 22.08.2023 passed in the writ petition, W.P.[C] No.2016/2014 has attained finality as on date and the same has not been put to challenge by the petitioner.

13. As the case of the petitioner is found similar to the petitioner in W.P.[C] no. 2016/2014 [Dilip Kumar Das vs. Union of India and others], this Court does not find any ground to allow the present writ petition, as has already been held by the co-ordinate bench in respect of the writ petition, W.P.[C] no. 1608/2024 [Dilip Kumar Das vs. Union of India and others]. As the writ petition is found to be bereft of any merits, the writ petition is accordingly dismissed. No cost.

**JUDGE**

**Comparing Assistant**