

GAHC010246832012



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

Case No. : WP(C)/2693/2012

BIREN SARMA and 5 ORS.
S/O- LT. JITENDRA NATH SARMA

1.1: SMTI. ASHRUMAYA SARMA

W/O LT. BRIEN SARMA

1.2: SMTI. ANANYA SARMA

D/O LT. BRIEN SARMA

1.3: SMTI.ANGKITA SARMA

D/O LT. BRIEN SARMA

1.4: SRI ANGKURAN SARMA

S/O LT. BRIEN SARMA
ALL ARE R/O STATION ROAD
WARD NO. 3
P.O. AND P.S. SIMALUGURI
DIST- SIBSAGAR
PIN-785686
ASSAM.

2: TILAK BHADRA
S/O- LT. NANI GOPAL BHADRA

3: JOGESH SHARMA
S/O- LT. RAM PRASAD SHARMA.

4: BADAL DAS
S/O- LT. MANTO DAS.

5: SIDDHESWAR SARMA
S/O- LT. TANKESWAR SARMA
1 TO 5 ARE R/O- SIMALUGURI TOWN
WARD NO. 3
DIST.- SIBSAGAR- 785686
ASSAM.

6: TANU KONWAR
S/O- LT. ABHARAM KONWAR
NEAR RAILWAY STATION
P.O. and DIST.- SIBSAGAR
PIN- 785640

VERSUS

UNION OF INDIA and ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF RAILWAYS,
RAIL BHAWAN, NEW DELHI- 110001.

2:THE GENERAL MANAGER
N.F. RAILWAY
MALIGAON
GHY- 11
DIST.- KAMRUP
ASSAM.

3:CHIEF COMMERCIAL MANAGER
N.F. RAILWAY
MALIGAON
GHY- 11
DIST.- KAMRUP
ASSAM.

4:THE DIVISIONAL RAILWAY MANAGER
N.F. RAILWAY
TINSUKIA
P.O. and DIST.- TINSUKIA
ASSAM
PIN- 786125.

5:THE DIVISIONAL COMMERCIAL MANAGER
N.F. RAILWAY
DIBRUGARH
P.O. and DIST.- DIBRUGARH
ASSAM
PIN- 786001.

6:THE ASSTT. COMMERCIAL MANGER

N.F. RAILWAY
DIBRUGARH
P.O. and DIST.- DIBRUGARH
ASSAM
PIN- 786001.

7:THE STATION SUPERINTENDENT
N.F. RAILWAY
SIMALUGURI JN.
P.O.- SIMALUGURI
DIST.- SIBASAGAR
PIN- 785686
ASSAM

Advocate for the Petitioner : MRG P BHOWMIK

Advocate for the Respondent : SC, NF RLY

Linked Case : WP(C)/2689/2012

DIMBESWAR GOGOI and 3 ORS.
S/O- LT. KARUNA GOGOI

2: RANJAN ALI
S/O- LT. KAYMAT ALI.

3: SANTI RANI MALAKAR
W/O- LT. NIRANJAN MALAKAR.

4: MONGAL CH. TELI PAUL
S/O- LT. GOSTA PAUL
ALL ARE R/O- FURKATING TOWN
P.O. and P.S.- FURKATING
DIST.- GOLAGHAT
ASSAM
PIN- 785610.
VERSUS

UNION OF INDIA and ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA
MINISTRY OF RAILWAYS
RAIL BHAWAN
NEW DELHI- 110001.

2:THE GENERAL MANAGER

N.F. RAILWAY
MALIGAON
GHY- 11
DIST.- KAMRUP
ASSAM.

3:CHIEF COMMERCIAL MANAGER
N.F. RAILWAY
MALIGAON
GHY- 11
DIST.- KAMRUP
ASSAM.

4:THE DIVISIONAL RAILWAY MANAGER
N.F. RAILWAY
TINSUKIA
P.O. and DIST.- TINSUKIA
ASSAM
PIN- 786125.

5:THE DIVISIONAL COMMERCIAL MANAGER
N.F. RAILWAY
DIBRUGARH
P.O. and DIST.- DIBRUGARH
ASSAM
PIN- 786001.

6:THE ASSTT. COMMERCIAL MANAGER
N.F. RAILWAY
DIBRUGARH
P.O. and DIST.- DIBRUGARH
ASSAM
PIN- 786001.

7:THE STATION SUPERINTENDENT
N.F. RAILWAY
FURKATING JN.
P.O.- FURKATING
DIST.- GOLAGHAT
PIN- 785610
ASSAM.

Advocate for : MRG P BHOWMIK
Advocate for : SC
NF RLY appearing for UNION OF INDIA and ORS.

Linked Case : WP(C)/1131/2012

RAILWAY CATERING AND VENDING CONTRACTOR ASSOCIATION and ANR.
N.F. RAILWAY
TINSUKIA DIVISION

REGISTERED OFFICE AT STATION ROAD
MARIANI
P.O. and P.S.- MARIANI
DIST.- JORHAT
ASSAM
PIN- 785634.

2: DILIP KUMAR BORAH
S/O- LT. BINANDA CHANDRA BORAH
GENERAL SECY. OF THE 'RAILWAY CATERING AND VENDING
CONTRACTOR ASSOCIATION' N.F. RAILWAY
TINSUKIA DIVISION
STATION ROAD
MARIANI
P.O. and P.S.- MARIANI
DIST.- JORHAT
ASSAM
PIN- 785634.
VERSUS

THE UNION OF INDIA and ORS
THROUGH GENERAL MANAGER
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011
DIST.- KAMRUP
ASSAM.

2:CHIEF COMMERCIAL MANAGER
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011
DIST.- KAMRUP
ASSAM.

3:THE DIVISIONAL RAILWAY MANAGER
N.F. RAILWAY
TINSUKIA
P.O. and DIST.- TINSUKIA
ASSAM
PIN- 786125.

4:THE DIVISIONAL COMMERCIAL MANAGER
N.F. RAILWAY
TINSUKIA
P.O. and DIST.- TINSUKIA
ASSAM
PIN- 786125.

5:THE ASSTT. COMMERCIAL MANAGER
N.F. RAILWAY

DIBRUGARH
P.O. and DIST.- DIBRUGARH
ASSAM
PIN- 786001.
6:THE STATION SUPERINTENDENT
N.F. RAILWAY
MARIANI JN.
P.O.- MARIANI
DIST.- JORHAT
PIN- 785634
ASSAM.

Advocate for : MR.R HAZARIKA
Advocate for : SC
NF RLY appearing for THE UNION OF INDIA and ORS

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

23.04.2024

1. Heard Mr. S. Borthakur, learned counsel appearing for the petitioners in WP(C) No. 2693/2012 and WP(C) No. 2689/2012. Also heard Mr. M. Chetia, learned counsel appearing for the petitioners in WP(C) No. 1131/2012. Mr. A. Borkotoky, learned counsel appears for the Railways in WP(C) No. 1131/2012, while Mr. B.K. Das, learned counsel appears for the Railways in WP(C) No. 2693/2012 and WP(C) No. 2689/2012.
2. As the issues raised in all the 3 writ petitions are similar and as all the 3 writ petitions can be disposed of in terms of Paragraph No. 22 of the common judgment passed in several cases, the leading case being WP(C) No.6473/2013, the 3 writ petitions are being also disposed of by this common order.
3. In view of the order dated 23.04.2024 passed in I.A. (Civil) No.

2741/2023, the legal heirs of the writ petitioner No.4 in WP(C) No. 2693/2012 are allowed to substitute the writ petitioner No.4. The legal heirs are as follows- (i) Mrs. Dipti Gogoi Das (wife) (ii) Debojit Das (son) (iii) Dipsikha Das (daughter) (iv) Biswajit Das (son) (v) Chiranjit Das (son) (vi) Supriya Das (daughter).

4. The petitioners are vending licensees in various railway station platforms within the State of Assam under Tinsukia Division. The grievance of the petitioners is with regard to the enhancement of the license fee. Though a fixed license fee had been settled between the respondents and the petitioners and agreements had been made to that effect, the respondents had unilaterally enhanced the license fee during the subsistence of the agreements. The validity of the agreements for the vending licenses pertaining to WP(C) No. 2693/2012 and WP(C) No. 2689/2012 was till 31.10.2015. On the other hand, the validity of the agreements for vending licenses pertaining to the petitioners in WP(C) No. 1131/2012 was till 31.10.2010.

5. The counsels for the parties submit that while the issue raised in the above 3 writ petitions was with regard to Clause 18 of the Catering Policy of 2010, the said Catering Policy has now been replaced by a new Catering Policy of 2017, which does not provide for renewal of existing vending licenses.

6. The counsels for the parties submit that in view of the new Catering Policy of 2017, which has come into effect, the present writ petitions can be disposed of in terms of Paragraph No. 22 of the common judgment and order passed in a batch of writ petitions, the leading case being WP(C) No. 6473/2013.

7. It has also been submitted at the Bar that some of the members of the petitioner Association in WP(C) No. 1131/2012 have expired in the meantime.

8. On considering the submissions made by the counsels for the parties and keeping in view the fact that the new Catering Policy of 2017 has replaced the earlier Catering Policy of 2010, besides the fact that the contract agreement between the parties has expired way back, the present writ petitions are being disposed of in terms of Paragraph No. 22 of the Judgment and Order dated 29.04.2022 passed in WP(C) No. 6473/2013, which is as follows-

“22. Taking into consideration that by dint of the interim orders, the petitioners are still paying license fee at the existing rate fixed in the year 2000, the Railway Authorities would be at liberty to enhance/reassess the license fee of the Petitioners notionally every 3 years on the basis of the actual sales turnover of the unit in the manner to be done in terms with Clause 18.3 and 16.2.3 for the period w.e.f. 1.11.2010 till the date of the instant judgment and to claim such enhanced amount and arrears thereof in terms with such assessment. It is clarified that if materials/data are not available, then the Railway Authorities would be entitled for minimum enhancement of 10% every three years since 1.11.2020. Further to that, the Respondent Authorities shall also be at liberty to take such steps as envisaged under the law as per its present existing policy in respect to the vending units of the Petitioners.”

9. The writ petitions are accordingly disposed of.

JUDGE

Comparing Assistant