

WP(C) 3032/2010

BEFORE

HON'BLE MR JUSTICE HN SARMA

Heard Mr. SS Dey, learned counsel for the petitioner.

Also heard Mr. J. Singh, learned Standing counsel, Railways.

The petitioner who is a concrete sleeper supplier has approached this court by filing this writ petition challenging the revised land license fee issued by the Senior Divisional Engineer, NF Railway, Lumding, respondent No.6 vide his demand notice dated 6.10.09.

Mr. Dey, learned counsel submits that whatever is required, the petitioner is paying the license fee in terms of the relevant circulars but the respondent No. 6 on a misconception of the relevant provision of law has issued further demand notice upon the petitioner to pay the arrear amount of fee as indicated above vide impugned demand notice. The petitioner having considered themselves not liable to pay any such land fee in the form of revised license fee, has filed a representation before the respondent No.6 on 8.1.09. The respondent No.6 before whom the representation was made, in spite of considering the representation, has issued another demand notice dated 6.10.09 directing the petitioner to pay an amount of Rs. 59,03,249/- otherwise the amount would be deducted from the bill of the petitioner. Faced with such a situation, the petitioner having been approached the Chief General Engineer, vide communication dated 6.4.10 clarified the matter. In the said communication, the authorities are directed to take appropriate and necessary action as indicated in the communication. The respondent No.6, not having taken any action in spite of such clarification issued by the Chief General Engineer, the petitioner has approached this court by filing this writ petition.

It appears that there has been some misconception about liability of the petitioner to pay the arrear license fee and in the clarification made by the Chief General Engineer in his communication dated 6.4.10.

In view of the aforesaid situation, without keeping the writ petition pending and as agreed by the learned counsel for the parties, this writ petition stands disposed of at the motion station with the following direction.

The respondent No.6, Sr. Divisional Engineer, NF Railway, Lumding shall take up the representation filed by the petitioner on 8.9.09 in the form of appeal with regard to the payment of the arrear license fee of the petitioner and consider the liability in terms of the clarification and direction issued by the Chief General Engineer vide communication dated 6.4.10. Such decision shall be taken by the said authority as early as possible preferably not later than three weeks from the date of receipt of this order.

Till such decision, the demand made by the respondent No.6 vide letter dated 6.10.09 shall not be given effect. The authority shall dispose of the matter by passing a speaking order on the basis of the aforesaid clarification issued by the Chief General Engineer, NF Railway and also taking into consideration other relevant facts including any order/circular holding the field and the demand to pay any arrear rent shall be as per such decision. After passing the order, the same shall be communication to the petitioner.

With this order, this writ petition stands finally closed.