

(2021) 09 DEL CK 0062

In the Delhi High Court

Case No : Civil Writ Petition No. 9958 Of 2021

Jitendra Singh & Ors.

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 10-09-2021

Acts Referred:

Constitution Of India, 1950 — Article 32, 226, 226(1), 226(2)

Citation : (2021) 09 DEL CK 0062

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : V.K. Shukla, Nupur Shukla, D. Mishra, Anirudha Gulati, Jagjit Singh, Preet Singh, Vipin Chaudhary

Final Decision : Dismissed

Judgement

Sanjeev Sachdeva, J

1. Petitioner is aggrieved by the action of the Senior Divisional Commercial Manager, East Central Railway, Pandit Dindayal Upadhyay Nagar, Uttar Pradesh, whereby enhanced advance annual license fee has been demanded from the petitioner.

2. Learned counsel for the petitioner submits that that this Court would have the territorial jurisdiction as the Railway Board is situated in Delhi. He submits that the demand raised by the Senior Divisional Commercial Manager, East Central Railway, Pandit Dindayal Upadhyay Nagar, Uttar Pradesh is contrary to the directions issued by the Railway Board at Delhi.

3. Learned counsel relies on a decision of a coordinate Bench of this Court dated 02.07.2007 in W.P. (C) 2103/2007 titled Jayswal Neco Ltd. Vs. Union of India & Ors., to contend that as the Railway Board is situated in Delhi, a Writ Petition would lie before this Court.

4. It is noticed that the petitioner impugns demand letters issued by Senior

Divisional Commercial Manager, East Central Railway, Pandit Dindayal Upadhyay Nagar, Uttar Pradesh.

5. There is no grievance raised by the petitioner with regard to any action or inaction of the Railway Board.

6. Since the seat of the authority, whose action is impugned is not within the territorial jurisdiction of Delhi and is located outside and further as the action impugned is with regard to a demand raised by the said authority, situated outside the territorial jurisdiction of the Court, cause of action would also not accrue within the territorial jurisdiction of this Court.

7. Article 226 of the Constitution lays down as under:-"226. Power of High Courts to issue certain writs

(1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories

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(underlining supplied)

8. Under Article 226 (1) of the Constitution, the High Court has jurisdiction to issue a writ to any person or authority which has its seat within the territory in relation to which it exercises jurisdiction. Under Article 226 (2), the High Court has the power to issue writ to an authority, which though does not have its seat within the territorial jurisdiction of the Court, but in respect of which the cause of action, wholly or in part, arises within the territorial jurisdiction of the Court.

9. Reliance placed by learned counsel for the petitioner on the judgment in Jayswal Neco Ltd. (supra) is misplaced inasmuch as the said judgment does not further the case of the petitioner.

10. In Jayswal Neco Ltd. (supra), the coordinate Bench of this Court had examined the provisions of Article 226 Constitution of India and by way of illustration specified the following four possibilities:-

"S. No.

Where is the Seat of Government or authority or residence of person to whom the writ is to be issued?

Where does the Cause of action (whole or in part) arise ?

Which High Court would have jurisdiction ?

1.

A

A

A [By virtue of Article 226 (1) as well as Article 226 (2)]

2.

A

B

A [Under Article 226 (1)] and B [Under Article 226 (2)]

3.

B

A

A [Under Article 226 (2)] and B [Under Article 226 (1)]

4.

B

B

B [Under Article 226 (1) as well as Article 226 (2)]

An explanation of the above table is necessary. For the purpose of demonstrating the territorial jurisdiction of two High Courts in State 'A' and State 'B', there are four possible situations which have been set out in the table above. At S. No. 1, the person, authority or government to whom the writ is to be issued is located in State 'A'. The cause of action has also arisen in whole or in part in State 'A'. Therefore, it is the High Court of State 'A' alone which has jurisdiction both under Article 226(1) as well as under Article 226(2). In the case of S. No. 2, the person, authority or government is located in State 'A', but the cause of action has arisen (in whole or in part) in State 'B', the territorial jurisdiction for the filing of a writ petition would lie both with the High Court of State 'A' and of State 'B'. The High Court of State 'A' would have jurisdiction by virtue of Article 226(1) inasmuch as the location of the person, authority or government to whom the writ is to be issued is within that State. The High Court of State 'B' would have jurisdiction because, although the location of the person, authority or government is in State 'A', the cause of action (in whole or in part) has arisen in

State 'B'. The next case is given under S. No. 3. Here the location of the person, authority or government is in State 'B', but the cause of action has arisen in State 'A'. In such a situation, both the High Courts of State 'A' and 'B' would have jurisdiction. But the High Court of State 'A' would have jurisdiction under Article 226(2) on account of cause of action and the High Court of State 'B' would have jurisdiction by virtue of Article 226(1) on account of location. Lastly, at S. No. 4 is a case which is the inverse of the situation in S. No. 1, both the location and the cause of action arise in State 'B'. Therefore, it would be the High Court of State 'B' alone which would have jurisdiction to entertain the writ petition both under Article 226(1) and 226(2). "

11. Learned Counsel for the Petitioner seeks to bring his case within Serial No.2 above and contends that as the cause of action having arisen in Delhi, this Court would have jurisdiction.

12. Clearly the submissions of learned counsel is misplaced and factually not borne out from the records. Cause of action would accrue only where an action is taken by an authority by which petitioner is aggrieved.

13. The subject Railway Station in respect of which the action has been taken is situated in Pandit Dindayal Upadhyay Nagar, Uttar Pradesh. The Demand letter has been issued also from the same place and the seat of the authority that has raised a demand i.e. the Senior Divisional Commercial Manager, East Central Railway is also situated in Pandit Dindayal Upadhyay Nagar, Uttar Pradesh.

14. Petitioner is not aggrieved by any action or inaction on the part of the Railway Board. His contention is that the demand raised by the Senior Divisional Commercial Manager, East Central Railway, is contrary to the directions of the Railway Board which is situated at Delhi.

15. It is not the direction of the Railway Board that would give rise to a cause of action but the demand raised by the Senior Divisional Commercial Manager, East Central Railway situated at Pandit Dindayal Upadhyay Nagar, Uttar Pradesh which would give rise to a W.P. (C) 9958/2021 cause of action, if any.

16. As, neither the authority i.e. the Senior Divisional Commercial Manager has its seat in Delhi, nor any action has been taken by the authority within the territory in respect of which this court exercises jurisdiction, this Court would not have the territorial jurisdiction to entertain the present petition.

17. The petition is accordingly dismissed for lack of territorial jurisdiction. All rights and contentions of parties are reserved.