

**(2010) 09 PAT CK 0176**

**Patna High Court**

**Case No:** CWJC No's. 9264 and 11723 of 2010

Akhileshwar Kumar Pandey and  
Another

APPELLANT

Vs

The Union of India (UOI) and  
Others <BR> Suresh Prasad Vs  
The Union of India (UOI) and  
Others

RESPONDENT

**Date of Decision:** Sept. 16, 2010

**Citation:** (2011) 1 PLJR 535

**Hon'ble Judges:** Sheema Ali Khan, J

**Bench:** Single Bench

### **Judgement**

@JUDGMENTTAG-ORDER

Sheema Ali Khan, J.

The Petitioner of CWJC No. 11723 of 2010 challenges the order cancelling the settlement made in his favour with respect to the fishing and water control rights of Raxaul Chor to Balmikinagar and Narkatiaganj Chor to Bhikhanatodi under the East Central Railway.

2. The reasons for cancellation is disclosed in the counter affidavit filed on behalf of the Railways wherein it has been stated that the Assistant Divisional Engineer, Narkatiaganj had not taken care to get the settlement advertised in the newspapers and advertisement was only pasted in the local offices of the Railways.

3. CWJC No. 9264 of 2010 has been filed by the Petitioner who is also an intervenor in the aforesaid writ application. His main grievance is that the settlement/ bid for the places described above should take place at Raxaul and not at Narkatiaganj. According to the Petitioner, whenever the procedure for bidding had taken place at Raxaul, it has fetched a higher price and thereby benefited the Railways. The exact figures have been provided in I.A. No. 7179 of 2010. This interlocutory application

discloses that in the year 2003, the bid for the first section at Raxaul had fetched Rs. 6 lacs and the bid of the second section at Narkatiaganj had fetched only a sum of Rs. 2.75 lacs. Similarly, in the year 2007, the bid held for the first section at Raxaul had fetched Rs. 10 lacs, whereas the bid for the second section held at Narkatiaganj had fetched only a sum of Rs. 3.8 lacs. It is submitted that on the basis of the aforesaid figures, it appears that there is a vested interest in holding the bid at Narkatiaganj.

4. It has also been specifically asserted on behalf of the Petitioner Suresh Prasad that he is ready to take settlement for the first section for a sum of Rs. 15 lacs and Rs. 9 lacs for the second section.

5. By order dated 13.8.2010, this Court had stayed the operation of auction which was to be held on 17.8.2010. This Court issues the following direction in order to ensure that the Railway should be benefited on account of the auction of the fishing and water control rights. The Divisional Engineer-II, East Central Railway, Samastipur, the Divisional Engineer and the Assistant Divisional Engineer, East Central Railway, Narkatiaganj should decide in view of the facts stated aforesaid as to which would be the best place to hold the auction. The Divisional Engineer- II, East Central Railway, Samastipur may consider holding the bid at a third place apart from Raxaul and Narkatiaganj. It appears that there is some under-current and problems in the aforesaid two places which is not healthy trend. Once, the bidders realize that the Railway Authorities mean business and would not indulge or favour any one party with respect to the settlement of the fishing and water control rights, the matter would automatically settled down.

6. I also direct that the newspaper publication and the auction should take place within a period of one month from the date of receipt/production of a copy of this order.

7. The Petitioner of CWJC No. 11723 of 2010 had deposited an advance in lieu of the settlement which was to be finalized in their favour. The Petitioner would be entitled to withdraw the said amount aforesaid. It would be proper for the Railway Authorities to return the advance paid by the Petitioner within a period of three weeks from the date of receipt/production of a copy of this order.

8. These two writ applications are accordingly disposed of with the aforesaid observations and directions.