

GAHC010118412021



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

Case No. : WP(C)/3614/2021

M/S JAYANTA KUMAR GHOSH OUTDOOR CATERING PVT. LTD. AND ANR
HAVING ITS REGISTERED OFFICE AT 119/3, M.N.K. ROAD, (GROUND
FLOOR), BARAHNAGAR, KOLKATA-700036, THROUGH ITS DIRECTOR AND
SHAREHOLDER
MR JAYANTA KUMAR GHOSH

2: MR JAYANTA KUMAR GHOSH
S/O LATE BALARAM GHOSH
NEAR OLD BALARAM GHOSH
NEAR OLD LOWER HAFLONG RAILWAY STATION
P.O. LOWER HAFLONG
P.S. HAFLONG
DIST. DIMA HASAO
ASSAM
PIN CODE- 78881

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECRETARY, MINISTRY OF RAILWAYS,
DEPARTMENT/MINISTRY OF RAILWAYS, RAIL BHAWAN, RAISINA ROAD,
NEW DELHI-110001.

2:THE INDIAN RAILWAYS CATERING AND TOURISM CORPORATION LTD.
(A GOVT. OF INDIA ENTERPRISE- MINI RATNA)
BEING A GOVERNMENT COMPANY HAVING ITS CORPORATE OFFICE AT
11TH AND 12TH FLOOR
STATESMAN HOUSE BUILDING
BARAKHAMBA ROAD
NEW DELHI-110001.

3:THE GROUP GENERAL MANAGER/PROCUREMENT
INDIAN RAILWAYS CATERING AND TOURISM CORPORATION LTD. 11TH
AND 12TH FLOOR

STATESMAN HOUSE BUILDING
BARAKHAMBA ROAD
NEW DELHI-110001.

4:THE GENERAL MANAGER/MOBILE CATERING SERVICE
INDIAN RAILWAYS CATERING AND TOURISM CORPORATION LTD.
11TH AND 12TH FLOOR
STATESMAN HOUSE BUILDING
BARAKHAMBA ROAD
NEW DELHI-110001.

5:THE ADDITIONAL GENERAL MANAGER
INDIAN RAILWAYS CATERING AND TOURISM CORPORATION LTD. 4/D
MANDOVI APARTMENT
AMBARI
GUWAHATI-3

Advocate for the Petitioner : MR A CHOWDHURY

Advocate for the Respondent : SC, NF RLY

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 26-05-2023

Heard Ms. B. Choudhury, learned counsel for the petitioners; Mr. B. Sharma, learned Standing Counsel, NF Railway; and Mr. G.N. Sahewalla, learned Senior Counsel assisted by Ms. P. Baisya, learned counsel for the respondent nos. 2 – 5.

2. The subject-matter of the writ petition is an assaignment to an order dated 05.08.2021 passed by the respondent no. 2 on the subject : Termination of Contract of on-board Catering Services in train no. 02424-23 NDLS-DBRT Rajdhani Special'. The operative part of the order reads as under :-

“In view of the reported “sale of Cooked Food”, “Storage of raw material for preparation of cooked food” and “illegal possession of 9 bottles of liquor by your staff”, two Show Cause Notices were served on you. Your replies to the Show Cause Notices were not found to be satisfactory, hence, it has been decided to terminate the

temporary contract of Train no. 02423-24 NDLS-DBRG Rajdhani, awarded to you, with immediate effect, as per terms and condition of license. Further, Competent Authority has decided to debar you from participating in future projects of IRCTC for a period of 06 months, from the date of issue of this letter.”

3. The Contract of on-board Catering Services in Train no. 02424-23 NDLS-DBRT Rajdhani Special was awarded to the petitioner under temporary license for a period of 90 days purely on ad-hoc basis pursuant to a Letter of Contract [LoC] dated 21.05.2021.

4. It is the contention of Ms. Choudhury, learned counsel for the petitioner that the order of debarment passed against the petitioner from participating in future projects of IRTCTC for a period of 6 [six] months from the date of issue of the order of termination is ex-facie stigmatic. The grounds of assailment are that any order of debarment in respect of business ventures has civil consequences and there was no prior and proper show cause notice meeting the two requirements indicating the materials/grounds and the proposed penalty/action, thus, violating the principles of natural justice.

5. Mr. Sahewalla, learned Senior Counsel for the respondent IRCTC has fairly submitted that the observation regarding debarment will not be considered as stigmatic for any purpose as the period of contract was long over and the matter has become stale.

6. Accepting the above submissions made by the learned Senior Counsel for the respondent IRCTC and as agreed to by the learned counsel for all the parties, this writ petition is closed with the observation that the observation regarding debarment of the petitioner for a period of 6 [six] months would not be considered as stigmatic for any purpose.

JUDGE

Comparing Assistant