

Court No. - 40

Case :- WRIT - C No. - 29983 of 2023

Petitioner :- Rehmanul Haq And Another

Respondent :- Union Of India And 11 Others

Counsel for Petitioner :- Rafiuddin Ansari, Sadrul Islam Jafri

Counsel for Respondent :- A.S.G.I., Krishna Agarawal, Naseem Rofi Q Alrafio
B.M. Mugaanii, Shikha Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioners and Sri Krishna Agarwal, learned counsel for the contesting-respondent.
2. The present writ petition has been preferred quashing the order/letter dated 13.6.2023 issued by the respondent no. 3 to the petitioners. With a further prayer commanding the respondent no. 3 to pass an appropriate order on the application of the petitioners dated 2.2.2023 for incorporating the name of the petitioners in the renewal of license for financial year for fruit vending business at Railway Station Moradabad within a stipulated period.
3. At the very outset, learned counsel for the contesting-respondent raised an objection regarding maintainability of the writ petition on the ground that previously the first petitioner had preferred WRIT - C No. - 24984 of 2021 (Rehman-ul-Haq v/s. Union Of India And 3 Others) seeking a direction to the Senior Divisional Commercial Manager, Northern Railway, Moradabad, respondent no.3, to incorporate the name of the petitioner also while renewing the license, on the basis of a partnership deed dated 18.8.2015 between the petitioner and respondent no.4. The Division Bench vide order dated 27.11.2021 had declined to accord any reprieve to the first petitioner with detailed observations. Therefore, the principal relief is already denied by the coordinate Bench in the aforementioned writ petition and only in continuance thereof the further notice is given to the petitioner and as such, the present writ petition is liable to be dismissed treating it to be second writ petition for the same cause of action.
4. In order to decide the matter on merit, it is appropriate to have a glance of the order dated 27.11.2021 passed by the coordinate Bench in the aforementioned writ petition. The same is reproduced herein below.

"Heard learned counsel for the petitioner and S/Sri Rajnish Kumar Rai and Shobhit Pathak, learned counsel for respondents.

Petitioner has prayed for a direction to the Senior Divisional Commercial Manager, Northern Railway, Moradabad, respondent no.3, to incorporate the name of the petitioner also while renewing the license, on the basis of a partnership deed dated 18.8.2015 between the petitioner and respondent no.4.

According to the petitioner a license for running a fruit vending shop had been awarded by the Railways in favour of one M/s Fazal Haq and sons and at the time of such award of contract there were three partners in the firm, namely, Anwarul Haq, Ziya-ul Haq and Shamsul Haq. Shamsul Haq is respondent no.4 in the writ petition while two other partners have already died. The original contract awarded in favour of M/s Fazal Haq and sons subsists with one of the partners alone i.e. respondent no.4. It appears that an application has been filed for including the petitioner as a licensee on the basis of a partnership deed allegedly executed between the petitioner and respondent no.4. It is on the strength of this partnership deed that the petitioner wants incorporation of his name in the licence.

Records reveal that the Railway Authorities have already declined such prayer of the petitioner on the ground that original license was in favour of M/s Fazal Haq and sons and that the petitioner has not been recognized as a licensee by any of the Railway Authorities.

Undisputedly, the licence is in the nature of a permission granted by the Railway Authorities to run a fruit vending firm. It is for the Railways to recognize as to in whose favour license is to be granted. It is not for the licensee to independently enter into a fresh contract nor can claim inclusions of petitioner's name in the license itself. No direction is, therefore, required to be issued in the present petition, as is prayed for. This petition is thus consigned to records. "

5. The issue of filing successive writ petition has been considered by the Hon'ble Supreme Court time and again and held that even if the earlier writ petition has been dismissed as withdrawn, Public Policy, which is reflected in the principle enshrined in Order 23 rule 1 C.P.C., mandates that successive writ petition cannot be entertained for the same relief. (Vide **M/s. Sarguja Transport Service Vs. State Transport Appellate Tribunal & Ors.**, AIR 1987 SC 88; **Ashok Kumar & Ors. Vs. Delhi Development Authority**, 1994 (6) SCC 97; and **Khacher Singh Vs. State of U.P. & Ors.**, AIR 1995 All. 338).

6. In **Dr. Buddhi Kota Subbarao Vs. K. Parasaran & Ors.**, AIR 1996 SC 2687, the Hon'ble Supreme Court has observed as under:-

"No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, access to justice should not be misused as a licence to file misconceived and frivolous petitions."

7. In **Tamil Nadu Electricity Board & Anr. Vs. N. Raju Reddiar & Anr.** AIR 1997 SC 1005 the Hon'ble Supreme Court held that filing successive misconceived and frivolous applications for clarification, modification or for seeking a review of the order interferes with the purity of the administration of law and salutary and healthy practice. Such a litigant must be dealt with a very heavy hand.

8. In ***Sabia Khan & ors. Vs. State of U.P. & ors.***, (1999) 1 SCC 271, the Hon'ble Apex Court held that filing totally misconceived petition amounts to abuse of the process of the Court and such litigant is not required to be dealt with lightly.

9. In ***Abdul Rahman Vs. Prasoni Bai & Anr.***, (2003) 1 SCC 488, the Hon'ble Supreme Court held that wherever the Court comes to the conclusion that the process of the Court is being abused, the Court would be justified in refusing to proceed further and refuse the party from pursuing the remedy in law.

10. In view of the above, we are of the considered opinion that the second writ petition is not maintainable for the same relief.

11. The writ petition is accordingly **dismissed**.

Order Date :- 28.11.2023

A.K.Srivastava