

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 19725 of 2015 (M)

PETITIONER :

**K.P.MANI,W/O.SUNIL KUMAR, AGED 44 YEARS,
VAKERI HOUSE, VYTHIRI P.O., WYANAD.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE**

RESPONDENT(S):

- 1. THE DIVISIONAL RAILWAY MANAGER (COMMERCIAL),
SOUTHERN RAILWAY, DIVISIONAL OFFICE, COMMERCIAL BRANCH,
PALGHAT-678 001.**
- 2. DEPUTY STATION MANAGER (COMMERCIAL),
SOUTHERN RAILWAY, KOZHIKODE, PIN-673 001.**

R1 & R2 BY STANDING COUNSEL SRI.C.S.DIAS

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 19725 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 :** TRUE COPY OF THE LETTER OF AWARD OF LICENSE NO.J/C 14/PCO/VI
DATED 15-6-2005 ISSUED BY RESPONDENT NO.1.
- EXT.P2 :** TRUE COPY OF THE LETTER NO.J/C.14/PCO/3/CLT/MKP/05
DATED 9-7-2010
- EXT.P3 :** TRUE COPY OF THE RECEIPT NO.9993332730 DATED 4-3-2015.
- EXT.P4 :** TRUE COPY OF THE LETTER DATED 22-6-2015 ISSUED BY
RESPONDENT NO.1
- EXT.P5 :** TRUE COPY OF THE INTERIM ORDER DATED 7-4-2015 PASSED BY
THIS HON'BLE COURT IN WRIT PETITON NOS.11266/2015.

RESPONDENT(S)' EXHIBITS

- EXT.R1(1):** COPY OF THE AGREEMENT DATED 29/10/2005 EXECUTED BETWEEN
THE PETITIONER AND THE RAILWAY ADMINISTRATION.
- EXT.R1(2):** COPY OF THE RIDER AGREEMENT DATED 1/8/2007 EXECUTED
BETWEEN THE PETITIONER AND THE RAILWAY ADMINISTRATION.

/TRUE COPY/

P.S.TO JUDGE

sts

K. Vinod Chandran, J

W.P.(C).No.19725 of 2015-M

Dated this the 12th day of August, 2015.

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner's licence for carrying out of STD/PCO booth has been cancelled by Exhibit P4 and despite the amounts for the future period having been accepted as per Exhibit P3. The petitioner contends that the petitioner had been carrying on STD/PCO for the last ten years in Kozhikode Railway Station. The petitioner was also permitted to pay the amounts for the future period of one year by Exhibit P3.

2. The learned Standing Counsel for the Railways, however, would contend that Exhibit P3 does not confer any right and the remittance of amount was not in accordance with a proper sanction of renewal by the Railways. The petitioner had merely deposited the amounts, for which receipt was issued, which does not in any manner indicate that there was an extension of the licence period. It is also averred in the counter affidavit filed that, by a Commercial Circular bearing No.24 of 2002 dated 22.04.2002, the Ministry of Railways (Railway Board),

Government of India had specifically laid down that contracts in respect of telephone booths at Railway Stations can be granted for a period of five years and a further renewal only for a period of another five years. Under no circumstances the licence could be renewed after the period of ten years as per the guidelines of the Railway Board.

3. From Exhibit R1(1) it is evident that the petitioner had been continuing the Railway STD/PCO booth for the last ten years. In such circumstance, even if the petitioner participates in a tender now, the petitioner would not be entitled for reason of his having continued for ten years. Exhibit P3, as has been rightly pointed out by the learned Standing Counsel, would not confer any right on the petitioner.

4. However, the STD/PCO booth has not been tendered till now. The Railway Board can go for a fresh tender for the licence of STD/PCO booth. However, till a fresh tender is finalised, the petitioner shall be permitted to continue the booth, being a public utility service. On the tender being finalised in favour of some other person, the petitioner shall, without any demur and without any claim whatsoever, vacate the premises

within seven days of a notice from the Railways. The petitioner shall be liable to remit the proportionate licence fee for the period in which he is continued, in excess of that already paid as per Exhibit P3.

The writ petition is disposed of as above.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]