

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 34016 of 2015 (B)

PETITIONER(S)/PETITIONER:

M/S. C.K.K CATERING SERVICE AGED 80 YEARS
A PARTNERSHIP FIRM HAVING OFFICE AT HOTEL SHAZIYA
P B NO 1776, SOUTH RAILWAY STATION ROAD, COCHIN 682016
REP BY ITS MANAGING PARTNER C K K MOIDOO

BY ADVS.SRI.M.C.SEN (SR.)
SMT.SHAHNA KARTHIKEYAN
SRI.T.L.ANANTHASIVAN

RESPONDENT(S)/RESPONDENTS:

1. INDIAN RAILWAY CATERING AND TOURISM CORPORATION LTD
(A GOVERNMENT OF INDIA ENTERPRISE) 11TH FLOOR , B 148
STATESMAN HOUSE, BARAKAMBA ROAD, NEW DELHI 110001.
2. REGIONAL MANAGER, REGIONAL OFFICE INDIAN RAILWAY CATERING
AND TOURISM CORPORATION LTD, CONVENT ROAD
ERNAKULAM 682035

R1&R2 BY ADV. SMT.ASHA CHERIAN
BY SRI.C.S.DIAS, SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXT.P1:- TRUE COPY OF THE ORDER DTD 11/5/2009 AWARDING THE LICENCE TO THE PETITIONER
- EXT.P2:- TRUE COPY OF THE LETTER MAKING ANNUAL LICENCE FEE PAID BY THE PETITIONER FOR THE YEAR 29/3/2015 TO 28/3/2016
- EXT.P3:- TRUE COPY OF THE LETTER DTD 25/4/2014 SENT BY THE PETITIONER REQUESTING THE IST RESPONDENT TO RELEASE THE PETITIONER FROM THE CONTRACT UNDER THE EXIT CLAUSE OF THE TENDER CONDITION
- EXT.P4:- TRUE COPY OF THE REMINDER DTD 8/11/2014 SENT BY THE PETITIONER TO THE IST RESPONDENT
- EXT.P5:- TRUE COPY OF THE REMINDER DTD 25/11/2014 SENT BY THE PETITIONER TO THE FIRST RESPONDENT
- EXT.P6:- TRUE COPY OF THE NOTICE DTD 19/8/2015 DEMANDING REMITTANCE OF RS 18,78,584/- TOWARDS THE ALLEGED OUTSTANDING DUES
- EXT.P7:- TRUE COPY OF THE REPLY LETTER DTD 7/9/2015 SENT BY THE PETITIONER TO THE IST RESPONDENT STATING THAT THE PETITIONER HAS ALREADY PAID THE OUTSTANDING AMOUNT OF 16.5400,000/-
- EXT.P8:- TRUE COPY OF THE E-MAIL DTD 16/9/2015 SENT BY THE IST RESPONDENT ASKING THE PETITIONER TO BE PRESENT ON 24/9/2015 AT THE OFFICE OF THE IST RESPONDENT
- EXT.P9:- TRUE COPY OF THE LETTER DTD 24/9/2015 SENT BY THE PETITIONER TOT HE IST RESPONDENT TO FIX THE DATE FOR PERSONAL HEARING
- EXT.P10:- TRUE COPY OF THE ORDER DTD 9/10/2015 ISSUE BY THE IST RESPONDENT TO THE PETITIONER TERMINATING THE LICENCE OF FOOD PLAZA AT ERODE STATION
- EXT.P11:- TRUE COPY OF THE CHEQUE DTD 14/10/2015 ISSUED BY THE PETITIONER TO THE REGIONAL MANAGER IRCTC ERNAKULAM
- EXT.P12:- TRUE COPY OF THE LETTER DTD 13/10/2015 BY THE MANAGING PARTNER TO THE IST RESPONDENT
- EXT.P13:- TRUE COPY OF THE LETTER DTD 14/10/2015 BY THE MANAGING PARTNER TO IST RESPONDENT
- EXT.P14:- TRUE COPY OF THE LETTER DTD 3/11/2015 SENT BY THE PETITIONER TO THE FIRST RESPONDENT
- EXT.P15:- COPY OF THE LETTER DATED 26.11.15 FROM J.S.CATTERS

RESPONDENT(S) ' EXHIBITS

- EXT.R2 (a) : TRUE COPY OF PROCEEDINGS OF IRCTC DATED 15.10.15
- EXT.R2 (b) : TRUE COPY OF LETTER DATED 5.11.15 ISSUED BY 2ND RESPONDENT.
- EXT.R2 (c) : TRUE COPY OF LETTER DATED 17.5.13 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (d) : TRUE COPY OF LETTER DATED 24.10.13 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (e) : TRUE COPY OF LETTER DATED 11.12.13 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (f) : TRUE COPY OF LETTER DATED 13.03.14 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (g) : TRUE COPY OF LETTER DATED 29.11.14 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (h) : TRUE COPY OF LETTER DATED 22.01.15 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (i) : TRUE COPY OF LETTER DATED 04.03.15 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (j) : TRUE COPY OF LETTER DATED 06.03.15 OF THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.R2 (k) : TRUE COPY OF MINUTES OF THE MEETING DATED 10.6.15.
- EXT.R2 (l) : TRUE COPY OF SHOW CAUSE NOTICE DATED 21.7.15 ISSUED BY JGM/IRCTC TO THE PETITIONER.

//TRUE COPY//

P.A TO JUDGE

vdv

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 34016 of 2015

Dated this the 4th day of December, 2015

J U D G M E N T

The petitioner is a registered partnership firm. They have engaged in railway catering service. The petitioner was given right to conduct food plaza at the Erode Railway Station under the 1st respondent. The term of the license commenced from 29.03.2012 to 28.03.2021 subject to payment of license for every year

2. It appears that the petitioner has defaulted the payment of license fees. Therefore, show cause notice was issued to the petitioner demanding 16.54 lakhs which included penalty @ 18% for delayed payment. It appears that the petitioner did not comply with the demand of license fee. Thereafter, the petitioner was given a showcause notice for the termination of license. The petitioner has been offered a personal hearing 16.9.2015 and also to clear the outstanding dues. However, the petitioner did not attend the hearing. Again it was scheduled on 24.9.2015. On that day also, the petitioner did not appear.

3. In view of the fact that the petitioner did not clear the overdue arrears and did not attend the personal hearing, the 1st respondent was constrained to terminate the license to the petitioner. The petitioner challenges the termination notice in this writ petition.

4. The learned Senior Counsel for the petitioner submits that the petitioner has cleared the entire outstanding arrears. It is also submitted that he could not appear before the 1st respondent on account of the reasons beyond his control. It is further submitted that if any opportunity is granted, he will explain the reasons for delay in payment of license fee and non-appearance for personal hearing.

5. The learned Standing Counsel for the respondent opposes the prayer of the petitioner and submits that petitioner is a chronic defaulter of payment of license fee. It is also submitted that since the petitioner was given several opportunities, the 1st respondent was constrained to terminate the license. It is also submitted that further operation of food plaza was allotted to another catering service agency, and they have backed out on account of pressure exerted by the

petitioner.

6. As matters stand now, the right to conduct food plaza has not been allotted to anyone. Considering the fact that the petitioner has cleared the outstanding arrears, substantial justice demands an opportunity of hearing shall be given to the petitioner. Therefore, treating Ext.P10 as provisional order, the petitioner shall appear before the 1st respondent on 14.12.2015. Appropriate decision shall be taken by the 1st respondent either permitting the petitioner to continue or to terminate the license. Till a decision is taken by the 1st respondent right to conduct, the food plaza shall not be re-tendered.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/