

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.28828 OF 2014

ORDER:

Heard Sri Avinash Desai, learned counsel for the petitioners and Sri E.Madan Mohan Rao, counsel for 1st and 2nd respondents.

The petitioners pray for Mandamus declaring letter No.AAI/TP/E-4 (Air Costa)/2195 dated 19.09.2014, as arbitrary, illegal, unconstitutional and violative of principles of natural justice. The petitioners pray for a consequential direction to respondents to permit the petitioners to provide manpower/ground handling services for M/s. Air Costa at Tirupati Airport from 24.09.2014 onwards.

The 1st petitioner is engaged in the business of aviation and providing ancillary services to Airlines. The 1st petitioner claims to be providing ground handling services on contract basis to Airlines at Tirupati, Viskhapatnam, Chennai, Vijayawada, Surat, Madurai and Hyderabad Airports. Air Costa Airlines is operated by LEPL Projects Limited. Through communication dated 15.09.2014, LEPL Projects awarded to 1st petitioner the contract of ground handling services for flight operations at Tirupati. The petitioners have enclosed security clearance certificate granted by competent authority in favour of 1st petitioner for providing the services referred to above. On 24.09.2014, Air Costa was scheduled to commence its operations at Tirupati Airport as well. On 18.09.2014, 2nd respondent requested the Airliner/Air Costa to furnish or make available the information requested through the instant letter. According to petitioners, the shortfall in compliance if any found in the application for grant of permission ought to be limited to the particulars requested through letter dated 18.09.2014. The petitioners claim to have furnished the information requested by the 2nd respondent. The complaint against the 2nd respondent is that the 2nd respondent, instead of accepting or approving the recommendation of Air Costa in favour of 1st petitioner for providing ground handling services, has rejected the request as follows:

“To

The Airport Manager,

M/s.Air Costa,

Tirupati Airport,

Renigunta.

Sub: Ground Handling services to M/s. Turbo Aviation Pvt Ltd-Permission-Reg.

Sir,

Further to this office communication Lr.no.AAI/TP/E-4 (Air Costa)/2180-81 Dt.18.09.2014, it is hereby informed that M/s.Turbo Aviation Pvt Ltd is not authorized to extend Ground Handling services at Tirupati Airport. Hence you are requested to do the needful.

Yours faithfully,

Sd/-

(R.Hari Krishnan)

Manager (C-T)/Comml.

For Airport Director,

AAI, Tirupati Airport”

The petitioners assail the communication dated 19.09.2014 as illegal, arbitrary and as bereft of reasons for refusing the request of Air Costa to have ground handling services by the 1st petitioner. It is the further submission of 1st petitioner that it is a corporate entity and has security clearance and as a matter of fact by reference to security clearance, the 1st petitioner is providing ground handling services to Spice Jet at Tirupati as well. From the instant narration, the legal ground canvassed is that the acceptance of request of Spice Jet for providing ground handling services the request of Air Costa ought to have been accepted and the reasons for refusal are completely untenable and liable to be set aside.

This Court through interim order dated 23.09.2014 directed the respondents to permit the 1st petitioner to provide ground handling services for Air Costa at Tirupati Airport. The order dated 23.09.2014 was initially for a period of six weeks and the same is extended from time to time.

The respondents filed petition to vacate the interim order dated 23.09.2014.

The objections of the respondents are that the 1st petitioner at present is permitted to extend manpower requirements of airline operators and the communication dated 15.09.2014 is between the petitioners and Airlines (Air Costa). The petitioners cannot make out any grievance against the impugned

communication dated 15.09.2014, for there is no relationship between 1st petitioner and 2nd respondent. The legal objection against the request of Air Costa to permit the 1st petitioner to provide ground handling services is that the security clearance issued to 1st petitioner is in respect of Chennai Airport but not Tirupati. The respondents rely upon Regulation No.3 which reads as follows:

“Ground handling services at airport: (1) A carrier may carry out ground handling services at Metropolitan airports, that is, the airports located at Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad, by engaging the services of any of the following namely:

- i. Airports Authority of India or its Joint Venture Company:
- ii. Subsidiary companies of the national carrier, that is, National Aviation Company of India Limited or its joint ventures specialized in ground handling services:

Provided that third party handling may be permitted to these subsidiaries or their Joint Ventures on the basis of revenue sharing with the Authority subject to satisfactory observance of performance standards as may be mutually acceptable to the Authority and these companies:

- iii. Any other ground handling service provider selected through competitive bidding on revenue sharing basis, subject to security clearance by the Central Government and observance of performance standards.
4. At all other airports, in addition to the entities specified in sub-regulation (1) of regulation 3, self handling may be permitted to the airlines, excluding foreign airlines.
1. All concerned agencies shall ensure that the state-of-the-art equipment are used and ‘best practices’ are followed.
2. Airlines or entities presently involved in ground handling which are not governed by these regulations shall not be permitted to undertake self-handling or third party handling with effect from the first day of January, 2009.”

It is stated that the petitioners cannot be extended ground handling service operations contrary to Regulation No.3. Letter dated 18.09.2014 addressed to Air Costa cannot be inferred as granting any permission to 1st petitioner to provide ground handling services at Tirupati Airport. The further objection is that without entrustment of ground handling services, when the request of Air Costa to permit the 1st petitioner to provide ground handling services is rejected, the petitioners cannot file writ petition and assail the same much less on the grounds referred in the writ affidavit. The learned counsel appearing for 2nd respondent contends that the writ prayer and the interim prayer are not maintainable under Article 226 of the Constitution of India.

Learned counsel appearing for the parties have substantially reiterated the

stand taken in the affidavit/counter affidavit.

I have taken note of the submissions of the learned counsel and also perused the material available on record. The consideration of 1st petitioner's request to provide ground handling services is taken up through letter dated 15.09.2014 of Air Costa. Admittedly the respondents herein have nothing to do with the award of contract or agreement to provide services by the petitioners. Air Costa has addressed letter dated 15.09.2014 to 2nd respondent to consider permitting 1st petitioner to provide ground handling services for its airline operations at Tirupati. In response to such request, the 2nd respondent has called upon Air Costa to make good a few deficiencies found in the application submitted in this behalf. Even assuming that these deficiencies have been made good by Air Costa, the 2nd respondent refused to permit the 1st petitioner to provide ground handling services at Tirupati. The aggrieved party is Air Costa, but not the 1st petitioner. The letter dated 19.09.2014, no contract relationship between Air Costa and Airport Authority of India can be inferred to provide services to the Airlines. It is an issue for consideration between Air Costa and the 2nd respondent. The 1st petitioner does not enter the picture till a formal communication accepting the request of petitioners forwarded through Air Costa is issued by the 2nd respondent. On the ground that the 1st petitioner has no locus to assail the impugned letter, the writ petition is dismissed. No order as to costs.

The learned counsel for the petitioners submits that the letter dated 19.09.2014 is result of misunderstanding of the security clearance the 1st petitioner has and the 1st petitioner is already providing manpower services for Spice Jet at Tirupati Airport and if the 1st petitioner is given liberty to make an application along with Air Costa to 2nd respondent, this Court considers directing the 2nd respondent to expeditiously consider and dispose of the application. The request of the learned counsel for the petitioners appears to be reasonable and intends to keep the activities of 1st petitioner in compliance with the requirements of law. The 1st petitioner is given liberty to make an application through Air Costa for providing manpower/ground handling services as the case may be to the 2nd respondent and

the 2nd respondent is directed to consider and take a decision within a period of seven days from the date of receipt of such application.

Miscellaneous petitions pending, if any, in the writ petition shall stand closed.

S.V.BHATT, J

Date:22.04.2015

Stp