

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 475 OF 2015

Sau. Nirmala w/o Vijaykumar Thakur

Age 65 years, Occu-Business,

R/o Siddheshwari Krupa

Adarshnagar, Front of

Hanuman Temple Selu,

Tq.Selu,Dist.Parbhani.

.. PETITIONER

Versus

- 1] The Union of India
Through its Secretart
Ministry of Railways (Railway Board)
Room No.256-A, Rail Bhavan
Raisina Road, New Delhi-110001
- 2] The Chief Commercial Manager
South Central Railway
Zonal Office at Secundarabad,
Secunderabad (AP).
- 3] The Divisional Railway Manager
South Central Railway
Office of Divisional Railway
Manager (DRM), Air Port Road

Nanded, Dist.Nanded.

4] The Senior Divisional Commercial Manager
South Central Railway
Office of DRM, Commercial Branch
Air Port Road, Nanded, Dist.Nanded

5] The Chief Commercial Inspector
South Central Railway,
Its office at Railway Station Parbhani
Tq. & Dist.Parbhani.

6] The Station Master,
South Central Railway
Partur Railway Station, Partur
tq. Partur, Dist.Jalna.

.. RESPONDENTS

Shri Gajanan G. Kadam,Adv. for petitioner

Shri S.B.Deshpande, Assistant Solicitor General for Respondents
no.1 to 6.

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**CORAM : S.S.SHINDE &
V.L.ACHLIYA, JJ.**

DATED : 8TH MARCH, 2016

PER COURT :-

Heard learned counsel appearing for petitioner and learned
ASG for Union of India.

2] With their able assistance, perused pleadings in the petition, annexures thereto, contents of the circular which is placed on record and the reply filed by the respondents. We have carefully perused the impugned order. Upon perusal of the impugned communication/order, it is abundantly clear that respondent authority has not given any reasons while rejecting the request of the petitioner for renewal of license.

3] The learned counsel appearing for the petitioner pressed into

service the judgment of the Supreme Court reported **in the case of Senior Divisional Commercial Manager and others V/s S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls, Welfare Association and others, reported in 2016(2) SCALE 38** and in particular the concluding two paragraphs of the said judgment, and submits that, keeping in view the circular which is placed on record, the request of petitioner ought to have been considered for renewal of license looking to the satisfactory performance for further renewal of the contract. However, in the present case, neither the circular has been considered by respondent authority nor any reasons are assigned in the impugned order and therefore, the Petition deserves consideration.

4] On the other hand, learned Assistance Solicitor General, invited our attention to the averments in the affidavit in reply and also contents of the circular and submits, that the husband of the petitioner was not original licensee, and secondly, there was no request during the subsistence of contract period for renewal of such license and the petitioner is in possession of two canteens, and therefore, keeping in view the spirit of the circular, dated 12/13-1-2012 at Exh.I, the request of the petitioner for renewal of license has been turned down. Therefore, he submits that petition deserves no consideration.

5] We have heard counsel for the petitioner, Learned Assistant Solicitor General for respondent, perused the pleadings in the petition, annexures thereof, averments in the affidavit in reply of the officer of the respondents and contents of the impugned communication. It is not in dispute that license was transferred in favour of late Vijaykumar by the original licensee and therefore, at the time of death of Vijaykumar, Vijaykumar was licensee. Admittedly, the petitioner is wife of the said Vijaykumar who runs two canteen, and also she has applied for the renewal and transfer of the license and also for extension of contract period. It is not necessary for us to give elaborate reasons, suffice it to say that the respondent authority while rejecting prayer of the petitioner for renewal of contract/transfer of license, has not kept in view the circular and without assigning any reasons, rejected the prayer of the petitioner. Therefore, in our opinion, interest of justice would sub serve if the respondent no.3 is directed to reconsider the prayer of the petitioner for transfer/renewal of the license. However, such reconsideration will be subject to depositing entire dues by the petitioner with the respondent authority.

6] In the result, impugned communication dated 8/8/2014, is quashed and set aside. An application filed by the petitioner for

transfer and renewal stands restored to its original file.

7] The petitioner to appear before the respondent authority on 29/3/2016. Respondent authority will communicate the petitioner amount due towards outstanding dues within one week from today. In case such communication is received by the petitioner, petitioner shall deposit entire due amount as communicated, within two weeks from receiving such communication. On depositing the entire amount with respondent no.3, respondent no.3 keeping in view relevant circular/policy shall take decision on the said application of the petitioner for renewal/transfer of license as expeditiously as possible, however, within 8 weeks from the date of appearance of the petitioner before respondent no.3. Till such decision is taken, interim protection granted by this Court to the petitioner shall continue. Both Petitions stand disposed of in above terms. Parties to act upon authenticated copy of this order.

(V.L.ACHLIYA,J.)

(S.S.SHINDE,J.)

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