

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.101 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.25 OF 2013

Bhagwan Sawlani and Others .. Applicants

In the matter between-

Bhagwan Sawlani and Others. .. Petitioners

Vs

The Divisional Railway Manager & Anr. .. Respondents

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Ms. Meenaz Kakalia i/b Ms. Gayatri Singh and Kranti L.C. For the Applicant.

Shri Suresh Kumar for the Respondents.

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CORAM : A.S. OKA & A.A.SAYED, JJ

DATED : 17TH JUNE 2016

P.C.

1. Heard learned counsel appearing for the Applicants and the learned counsel appearing for the Respondents. The only prayer for interim relief in this Notice of Motion reads thus:

“(a) Pending hearing and final disposal of the Petition the following reliefs be granted:

(i) The Applicants be allowed to sell other products at the Railway PCO Booths on such terms and conditions as this Hon'ble Court may deem fit.”

2. There is a reply filed by Shri A.C. Tiwari, Divisional Commercial Manager, working in the office of Divisional Railway Manager (Commercial), Western Railway, Mumbai Central, Mumbai, which is tendered across the bar. In the reply, reliance is placed on Circular dated 18th October 2012 issued by the Railway Board which permits sale of SIM cards of new connections, mobile phones and related accessories in the existing PCO booths at Railway Stations. The learned counsel appearing for the Applicants states that in the earlier Notice of Motion, there was an affidavit filed which indicates that the Circular dated 18th October 2012 has been withdrawn. However, in Paragraph 7 of the present affidavit, Shri A.C. Tiwari has stated thus:

“7. I say that in view of clarification of Headquarter in respect of the policy decision of Railway Board permitting the Booth holders to sell items as per the letter dated 18.10.2012. I say that member of the Petitioner will be permitted to sell the items mentioned in the letter dated 18.10.2012. Hereto marked and annexed “Exhibit-B”, the copy of letter dated 18.10.2012. I say that the compliance of the order may be taken on record.”

3. We accept the statements made in Paragraph 7 of the said affidavit of Shri A.C. Tiwari as the undertakings of the Respondents.

4. The grievance of the learned counsel appearing for the Applicants is about failure of the Railways to permit the sale of other

items in PCO Booths on Railway Stations. The other grievance is regarding the decision to charge additional license fees. If the Applicants have any grievance regarding the Circular dated 18th October 2012, they will have to challenge the said Circular in accordance with law. By accepting the aforesaid statements and by granting liberty to the Applicants to challenge the said Circular, we dispose of the Notice of Motion.

5. At this stage, the learned counsel appearing for the Respondents states that on formal application being made by booth holders, the Respondents will immediately grant permission in terms of the said Circular dated 18th October 2012. We accept the statement.

(A.A. SAYED, J)

(A.S. OKA, J)