

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.19581 of 2016 and
WMP.No.16925 of 2016

M.M.Sunil Dath

.. Petitioner

Vs.

1.Union of India,
Owning Southern Railway,
Represented by its General Manager,
Chennai - 600 003.

2.The Senior Divisonal Commercial Manager,
Southern Railway, Chennai Division,
2nd Floor, NGO Annexe,
Park Town, Chennai - 600 003.

..
Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to accept the affidavit dated 06.06.2016 submitted by the petitioner to the 2nd respondent in terms of the judgment of the Hon'ble Supreme Court dated 29.01.2016 made in Civil Appeal No.618-620 of 2016 (Senior Divisional Commercial Manager & Ors Vs. S.C.R. Caterers, Dry fruits, fruit juice stall welfare association & anr) and renew the license in favour of the petitioner for a further 5 years period on the basis of reasonable increase of License fee in respect of Fruit and Fresh Fruit Juice Stall S-9/MAS situated at Platform No.8 & 9 Chennai Central Railway Station.

For Petitioner : Mr.K.Sridhar

For Respondents: Mr.P.T.Ramkumar
Standing Counsel

ORDER

disposal.

2 Mr.K.Sridhar, learned counsel for the petitioner has drawn the attention of this Court to the affidavit filed in support of this writ petition as well as to the typed set of documents and would submit that the petitioner is running a Fruit and Fresh Juice Stall No.S-9/MAS situated at Platform No.8/9, Chennai Central Railway Station, through a license issued by the 2nd respondent on and from 05.08.2010 and initially, for a period of five years. It is further submitted that the Ministry of Railways had announced the Catering Policy 2010 vide Commercial Circular No.35/2010 dated 21.07.2010, in and by which, the Railways is progressively taking over the management of all mobile and static catering services including base kitchens in a phased manner. Accordingly, the 2nd respondent took over the Fruit and Juice Stall run by the petitioner with effect from 24.01.2011 and the petitioner had also entered into an agreement on 31.01.2011 and as a consequence of which, the petitioner was permitted to provide catering services in the very same stall till the expiry of the license period. It is also the submission of the learned counsel for the petitioner that prior to the termination order, he made a request for extension of the lease for a further period of three years and it was extended on temporary basis till 31.05.2016. All of a sudden, on 04.06.2016, without notice, whatsoever, the 2nd respondent, with the help of the Railway Protection Force, had forcibly dispossessed the petitioner and also sealed the Fruit and Juice Stall. It is the further submission of the learned counsel that admittedly, the petitioner's stall is a minor unit and is running only one stall and therefore, in all fairness, the extension of license ought to have been granted by the 2nd respondent and hence, prays for appropriate orders.

3 Per contra, Mr.P.T.Ramkumar, learned Standing Counsel who accepts notice for the respondents, has drawn the attention of this Court to various clauses in Catering Policy, 2010 and would submit that Clause No.17 speaks about the renewal and it is not a matter of right and as per Clause 17.1, satisfactory performance of the licensee during the tenure of the contract is a mandate and imposition of fine/warnings on more than 5 occasions will result in rejection of the application for renewal and insofar as the petitioner is concerned, he has been imposed with a penalty on 14 occasions and prays for time to communicate the said decision to the petitioner and would further add that the petitioner's tenure of license was extended purely as a temporary measure and not

by way of renewal of license.

4 This Court after considering the rival submissions, directs the 2nd respondent to consider the renewal or license prayed for by the petitioner in the form of affidavit dated 06.06.2016 in accordance with law and communicate the decision taken, to the petitioner within a period of two weeks from the date of receipt of a copy of this order and if the petitioner is aggrieved by the same, he is always at liberty to work out his remedy in accordance with law, before the competent Forum.

5 The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP
To

1. The General Manager, Union of India,
Owning Southern Railway,
Chennai - 600 003.
- 2.The Senior Divisonal Commercial Manager,
Southern Railway, Chennai Division,
2nd Floor, NGO Annexe,
Park Town, Chennai - 600 003.

+ 1 cc to M/s.K. Sridhar, Advocate Sr.31423
+ 1 cc to Mr.P.T. Ramkumar, Advocate sR.31350

W.P.No.19581 of 2016

VD(CO)
Eu 21.06.16