

In the High Court of Judicature at Madras

Dated: 08.12.2016

Coram

The Honourable Mr.JUSTICE B.RAJENDRAN

W.P.Nos.29000 and 32134 of 2016

and

WMP Nos.25077 and 25078 of 2016

in

W.P.No.29000 of 2016

M.M.Sunil Dath

.... Petitioner in
both W.Ps.

Vs.

1.Union of India,
Owning Southern Railway,
Rep. By its General Manager,
Chennai 600 003.

2.The Senior Divisional Commercial Manager,
Southern Railway,
Chennai Division,
2nd floor, NGO Annexe,
Park Town,
Chennai 600 003.

.... Respondents in
both W.Ps.

Prayer in W.P.29000/16 :Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the entire records leading to the issue of proceedings bearing No.M/C.79/Catering/GMU/S-9 (FFJS) MAS dated 03.08.2016 on the file of the 2nd respondent and quash the same and direct the respondents herein to accept the affidavit dated 06.06.2016 submitted by the petitioner to the 2nd respondent interms of the judgment of the Honourable 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 stalls 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 without reference to the alleged fine imposed on the petitioner without showcause notice and enquiry in violation of natural justice.

Prayer in W.P.32134/16 :Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of declaration declaring the fines and warnings issued against the petitioner on various occasions without show cause notice and enquiry in violation of natural justice in respect of Fruit and Fresh Fruit Juice Stall S-9/MAS situated at Platform No.8/9 Chennai Central Railway Station are unconstitutional Null and Void and consequently cannot be taken into account for considering the application of the petitioner for renewal of his Licence in respect of Fruit and Fresh Fruit Juice Stall S-9/MAS situated at Platform No.8/9 Chennai Central Railway Station for a further 3 year period.

For Petitioner : Mr.K.Sridhar
in both W.Ps.

For Respondents : Mr.P.T.Ramkumar
in both W.Ps. Standing Counsel for Railway

COMMON ORDER

The petitioner has come up with these writ petitions for the reliefs stated therein.

2.The case of the petitioner is that he is running a fruit and Fresh fruit juice stall in Chennai Central Railway Station under license from 05.08.2010 and he is paying the license fee without any default. Thereafter, under the Catering Policy 2010, the second respondent took over the stall with effect from 24.01.2011 and entered into an agreement with the petitioner on 31.01.2011. Though the petitioner extended his license and paid fine imposed by the respondent, the second respondent on 04.06.2016 sealed the stall of the petitioner and passed an impugned order dated 03.08.2016, rejecting the claim for renewal of the license of the petitioner in respect of his shop for further period of 5 year. Aggrieved against the same, he has filed this writ petition.

3.Learned counsel for the petitioner submitted that the petitioner is only a petty shop holder and he has no other shops in the railway. Though the respondent imposed fine many times without any show cause notice, the petitioner accepted and paid them. Hence, the petitioner is eligible for renewal of his existing license. He further contended that the petitioner may be reconsidered by the authority concerned to allot him a small shop afresh. Even for a similarly placed person, the respondent extended the lease for shop.

4.Learned Standing Counsel for the respondents submitted that the tender was already called for in which, the petitioner

was also participated. The question of consideration depends upon the results of the tender.

5.Heard both sides.

6.After hearing both sides, the only ground stated by the petitioner is that he is only a petty shop holder and has no other shops and that the earlier fines imposed without notice have been accepted and paid by the petitioner. The respondents also extended the lease for similarly placed persons. In such view of the matter, the petitioner may be reconsidered to allot him a small shop on any fresh terms to be fixed by the authority concerned. Therefore, without going into the merits of the matter, the second respondent shall consider the request of the petitioner for allotment of a shop, if he is otherwise eligible, within a period of 15 days without taking into consideration of the fine. With the above direction, both the writ petitions are disposed of. No costs. The connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.Union of India,
Owning Southern Railway,
Rep. By its General Manager,
Chennai 600 003.

2.The Senior Divisional Commercial Manager,
Southern Railway,
Chennai Division,
2nd floor, NGO Annexe,
Park Town,
Chennai 600 003.

+1 cc to M/s.K.Sridhar Advocate sr 72443
+1 cc to Mr.P.T.Ramkumar Advocate sr 72620

W.P.Nos.29000 and 32134/16

aa23/12/2016