

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.32771 of 2016

& W.M.P.No.28344 & 28345 of 2016

M.Mohamed Akbar

... Petitioner

Versus

1. The Southern Railway, Rep. By its General Manager,
Park Town, Chennai - 600 003
2. The Southern Railway,
Rep. By its Senior Divisional Commercial Manager,
Divisional Office,
Commercial Branch, Chennai - 600 003
3. The Divisional Commercial Manager-II/MAS,
Southern Railway, Commercial Branch,
Chennai - 600 003
4. The Station Manager, Southern Railway,
Arakonam Junction, Arakonam

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for the records of the second respondent herein, bearing No.M/C/79/GMU-30/CS/AJJ, dated 06.07.2016, in respect of catering Stall No.GMU-30 at Arakonam Railway Station and to quash the same.

For Petitioner : Ms. AL.Ganthimathi

For Respondents : Mr. P.T.Ramkumar

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O R D E R

Heard Ms.A.L.Ganthimathi, learned counsel appearing for the petitioner and Mr.P.T.Ramkumar, learned Standing Counsel appearing for the respondents. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner was granted licence to run a catering stall in Platform Nos.4/5 at Arakonam Railway Station for a period of five years from 06.03.2015 to 05.03.2020. The petitioner appears to have not remitted the annual licence fee for the period from 06.03.2016 to 05.03.2017, before commencement of the licence period. Therefore, the respondents have sealed the shop and issued the impugned show cause notice.

3. The petitioner's case is that he could not enjoy the business from the date of its commencement, i.e., 06.03.2015, on account of the circumstances not attributable in. But on account of the fact that electricity connection was not given, the Station Master opened the stall much later etc., These issues, which are pointed out by the petitioner, can be a ground to seek for remission of the payment of licence fee, subject to the petitioner establishing the same to the satisfaction of the authority, who granted the licence. But this can hardly be a reason for the petitioner refusing to remit the licence fee. Therefore, if the petitioner refuses to remit the licence fee, automatically, he becomes a defaulter and the respondents may be justified in cancelling the licence. However, that appears to have not been done, but the stall has been sealed and the show cause notice has been issued. Therefore, the petitioner should be directed to pay the licence fee and thereafter has to approach the authority, by way of appropriate representation.

4. In the light of the above, there will be a direction to the petitioner to pay the entire licence fee payable up-to-date and on effecting payment, the stall shall forthwith de-sealed and opened to enable the petitioner to commence his business. On such opening of the stall, the petitioner shall submit a representation to the second respondent, along with the copy of this order, setting out the facts, which according to the petitioner, prevented him from enjoying the licence for the entire period. If such a representation is given, the second respondent shall consider the same, verify the facts, pass a speaking order and communicate the same to the petitioner, within a period of six weeks from the date of receipt of the representation from the petitioner.

5. This writ petition is disposed of accordingly. No costs. Consequently, the connected WMPs are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

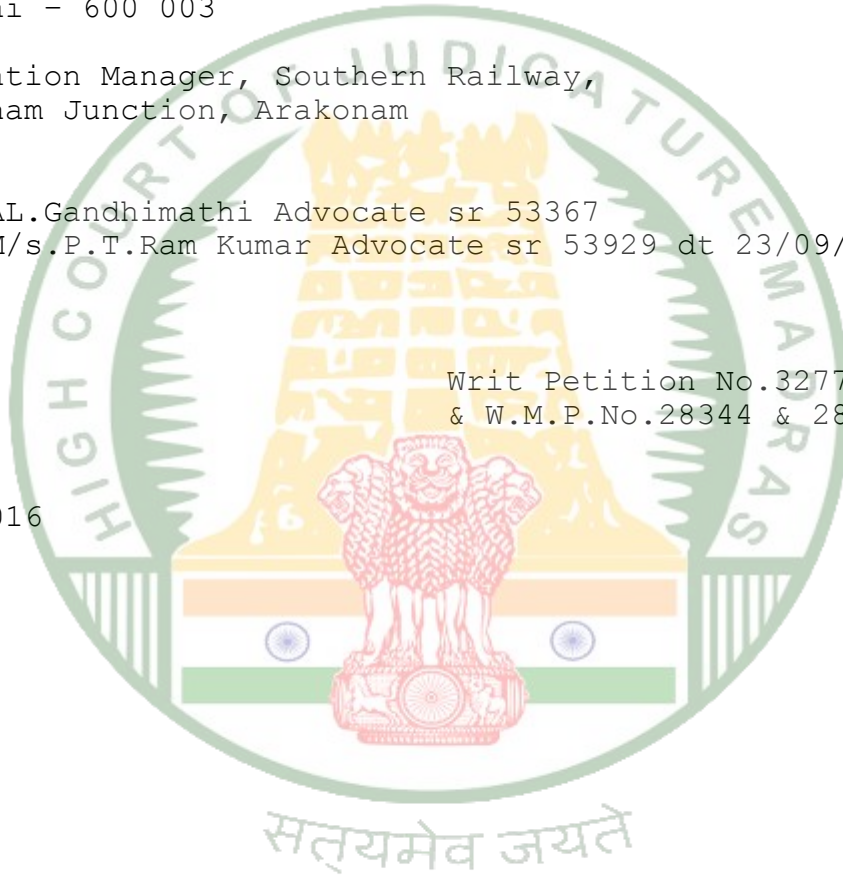
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+1 cc to AL.Gandhimathi Advocate sr 53367

+1 cc to M/s.P.T.Ram Kumar Advocate sr 53929 dt 23/09/2016

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