



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:08.12.2016
CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.(MD)No.23682 of 2016

and

W.M.P.(MD).Nos.17017 and 17018 of 2016

S.Sankar Ganesh

...Petitioner

Vs.

1. The Senior Divisional Commercial Manager,
Divisional Office,
Commercial Branch,
Southern Railway,
Madurai.

2. The Divisional Commercial Manager,
Divisional Office,
Commercial Branch,
Southern Railway,
Madurai.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the Tender Notification No.U/C79/Catg/SMU/2/Application/2016-17 dated 01.11.2016 on the file of the second respondent and quash the same as illegal in so far as Ramanathapuram Railway Station Special Minor Units concern and to direct the respondents herein to renew the license in favour of the petitioner in respect of the non-vegetarian light refreshment stall-1 unit at Ramanathapuram Railway Station as per catering policy 2010.

For Petitioner	: Mr.C.Prabhu Rajadurai for Mr.S.Muthukumar
For Respondents	: Mr.S.Manohar

O R D E R

The petitioner is aggrieved against the tender notification dated 01.11.2016 issued by the second respondent and consequently, sought for a direction to the respondents to renew the license in his favour in respect of non-vegetarian light refreshment stall-1 unit at Ramanathapuram Railway Station.

2. Heard Mr.C.Prabhu Rajadurai, the learned counsel appearing for the petitioner and Mr.S.Manohar, the learned counsel appearing for the respondents even at the admission stage.

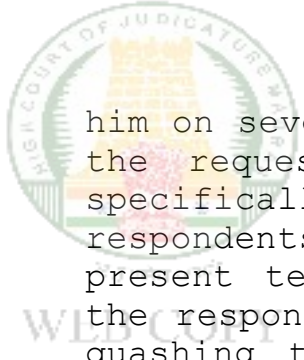


3. The petitioner was given a license to run the non-vegetarian light refreshment stall-1 unit at Ramanathapuram Railway Station for a period which ended in the month of March 2016. According to the petitioner, he is entitled for renewal of further period of three years and however, the same was rejected by the authorities. Therefore, he filed a writ petition before this Court in W.P.(MD).No.6928 of 2016, challenging the rejection order. This Court disposed the said writ petition, directing the petitioner to make a representation to the respondents and with a further direction to the first respondent to consider the same and pass orders on merits and in accordance with law, after giving him an opportunity of hearing, sympathetically, within a period of two weeks thereafter. Thus, it is contended that even though the petitioner made a representation to the respondents as directed by this Court, the same was not considered and on the other hand, the present impugned tender notification was issued, calling for tenders to award the license for the said non-vegetarian light refreshment stall-1 unit at Ramanathapuram Railway Station.

4. Mr.C.Prabhu Rajadurai, the learned counsel appearing for the petitioner contended that when this Court has earlier directed the respondents to consider the representation of the petitioner also by giving an opportunity of hearing, the present action of the respondents in issuing the impugned tender notification cannot be sustained and in fact, it is against the spirit of the order passed by this Court.

5. On the other hand, the learned counsel appearing for the respondents submitted that the representation of the petitioner dated 27.04.2016 was considered and an order was passed on 05.12.2016, rejecting his request for renewal, however by permitting the petitioner to participate in the tender process. He has also produced the copy of the said order.

6. Upon considering the above said facts and circumstances, it is seen that the petitioner, who was awarded the license to run the non-vegetarian light refreshment stall-1 unit at Ramanathapuram Railway Station for a period of three years has not been given the renewal, after the expiry of the original license period and when the petitioner challenged the rejection of said renewal request in the earlier writ petition, this Court has not interfered with such order passed by the authorities and on the other hand, it has only directed the petitioner to make one more representation to the respondents for them to consider it sympathetically. Therefore, the fact remains that the earlier rejection order was not set aside and however, the petitioner's case was directed to be considered sympathetically. Now, after the order on 05.12.2016, wherein, after stipulating various irregularities committed by the petitioner and the fine imposed on



him on several occasions, justified their stand of not considering the request of the petitioner for renewal. Even though they specifically stated such laches in the said communication, the respondents however permitted the petitioner to participate in the present tender process. When such being the concession given by the respondents, I do not think that the petitioner can seek for quashing the present tender notification as a matter of right, especially when the renewal request has already been rejected. The respondents are entitled to invite fresh tenders for letting the stall on license. Therefore, I find that there is no justification on the part of the petitioner to approach this Court once again without participating in the tender process. Accordingly, the writ petition fails and the same is dismissed. It is open to the petitioner to take part in the tender process and if he takes part, the respondents shall consider his tender, uninfluenced by any of the earlier conduct of the petitioner, as the respondents themselves have condoned the same and permitted him to take part in the present tender process. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar(Accounts)

/True Copy/

Sub Assistant Registrar(CS)

To

1. The Senior Divisional Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railway, Madurai.
2. The Divisional Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railway, Madurai.

+1cc to Mr.S.Muthukumar,Advocate Sr.No.79947

+1cc to Mr.S.Manohar,Advocate Sr.No.80214

W.P. (MD) No.23682 of 2016

08.12.2016

akv

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