

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Writ Appeal Nos.1451 and 1452 of 2016

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The appellant-writ petitioners have preferred these writ appeals aggrieved by the fact that the interim orders passed earlier in W.P. Nos. 35400 of 2016 and 40356 of 2016 dated 22.11.2016, whereby respondents 2 to 4 were directed not to evict the members of the petitioner-association from their respective shops-stalls besides directing them to renew the respective licence in respect of one shop was not extended after 29.11.2016.

While Sri Prabhakar Peri, learned counsel for the respondents-railways, would submit that an appeal under Clause 15 of the Letters Patent would not lie as there is no order against which these appeals can be said to have been preferred, the appellants are questioning the failure of the learned Single Judge in not extending the interim order, granted in their favour earlier, beyond 29.11.2016. We are satisfied that the petitioners can, in such circumstances, avail their remedy of an intra-court appeal under Clause 15 of the Letters Patent.

The Supreme Court in **Senior Divisional Commercial Manager vs. S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association and another** (judgment in Civil Appeal Nos.618-620 of 2016, dated 29.1.2016), while refusing to interfere with the order of the Division Bench of this Court in W.A. Nos. 1573-1575 of 2013 dated 12.9.2013, had made it clear that only those licensees may be eligible for renewal of their licences who would declare, on affidavit, that they do not have a licence of more than one shop or kiosk in their name, or in the name of their benami, at the railway stations with periodical reasonable increase of the licence fee.

Sri V.S.R. Anjaneyulu, learned counsel for the appellants-writ petitioners would submit that the Appellants-Writ Petitioners intend

retaining only one shop, and give up their claim to be granted licence, for all the other shops and kiosks in the railway stations, which earlier stood either in their name or in the name of others. On the other hand Sri Prabhakar Peri, learned counsel appearing on behalf of the respondents-railways, would submit that the order of the Supreme Court only required those who were granted licences with respect to one shop alone to be continued; and, in cases where licences were granted for more than one shop earlier, for cancellation of the licences for all the shops. Accepting such a contention would, *prima facie*, mean that, while a person who has been granted licence only for one shop is required to be permitted to continue carrying on business in that shop, those, who were hitherto granted licences for more than one shop, would not be able to carry on any business as the licences issued in their favour earlier, for all the shops, are liable to be cancelled. That would place those who were granted licences for more than one shop earlier, on a worse footing than those who were earlier granted licence only for one shop. *Prima facie* the submission of Sri Prabhakar Peri, Learned Counsel for the respondent-railways, that the Supreme Court intended to deny those, who were earlier granted licences for more than one shop, to be granted licence for even one shop, does not appear to be valid.

In our view, the order of the Supreme Court required all those persons, who were earlier granted licences for more than one shop or kiosk, either in their name or in the name of their benami, to file an affidavit declaring that they have licences for more than one shop or kiosk either in their name or in the name of others; and that they agreed for periodical reasonable increase of licence fee for the one shop-kiosk wherein they intend carrying on their business. These affidavits shall be filed by each individual licensee, and not by the Association. On such an affidavit being filed, and on the petitioners unconditionally delivering possession of all shops-kiosks except one, they shall be permitted to retain only one shop or kiosk to carry on their business. The question,

whether they are entitled to be granted license even for one shop-kiosk, shall be considered when the Writ Petitions are finally heard.

The writ appeals are, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

27th December, 2016

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