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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6007/2016 & C.M.Nos.24752-24754/2016

M/S SURYA FOOD & AGRO LTD. Petitioner

Through Mr.Jitender Mehta, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through Mr.Jagdish Goyal, Law Officer for R-2.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **15.07.2016**

Present writ petition has been filed with the following prayers:-

(a) To issue a writ of certiorari or any other writ or direction calling for the records and proceedings of AVMs of the petitioner i.e. at Platform no.1 middle, and 2/3 middle Mirzapur Railway Station (NCR) and Platform no.1 middle and 2/3, middle at Etawah Railway Station (NCR) and Platform no.2 middle at Tundla Railway Station (NCR) and Platform no.1/ 2/3 middle, 4/5 middle and 6/7, middle at Kanpur Railway Station (NCR),

(b) To issue any appropriate writ or direction and declare that the initiation of proceedings for the closer of AVMs i.e. at Platform no.1 middle, and 2/3 middle Mirzapur Railway Station (NCR) and Platform no.1 middle and 2/3, middle at Etawah Railway Station (NCR) and Platform no.2 middle at Tundla Railway Station (NCR) and Platform no.1/ 2/3 middle, 4/5 middle and 6/7, middle at Kanpur Railway Station (NCR) is illegal, arbitrary, unconstitutional, null and void-ab-initio and is liable to be quashed and set aside and to direct the respondents to renew the license agreement of above

mentioned AVMs of the petitioner till the finalization of fresh contracts for AVM,

(c) Or in alternative issue writ of mandamus or any other appropriate writ, order or direction thereby commanding all respondents to state the reason for not inviting fresh bids/tenders for AVMs as per catering Policy 2010.

The petitioner is aggrieved in essence by the inaction of respondent No.4 in not extending the petitioner's license for Automatic Vending Machines (AVMs) at the platforms at Kanpur, Tundla, Mirzapur, Etawa railway stations.

The admitted facts are that the tenders for AVMs were awarded for five year on 1st August, 2008. Subsequently, it seems that the tenders were extended from time to time awaiting allotment of fresh contracts.

Learned counsel for the petitioner states that though no new tenders have been issued for AVMs at the aforesaid railway stations, yet respondent No.4 has failed to extend the petitioner's license. He also refers to the order dated 2nd June, 2016 passed in W.P.(C) No.5356/2016 whereby a Coordinate Bench of this Court has permitted the petitioner to operate his stall at Varanasi Railway station on the condition that the petitioner shall furnish an undertaking that he shall vacate the stall when fresh tenders are awarded.

However, this Court is of the opinion that the petitioner is not entitled to any relief as the petitioner's contract has expired by efflux of time on 1st August, 2013.

It is always open to the Railways not to have the Automatic Vending Machines at all and use the space vacated for some other purposes. The order dated 2nd June, 2016 referred to by the petitioner

is an interim order and not a final order. Consequently, its precedential value is extremely limited. This Court also finds that the said order did not pertain to tender of AVMs but stalls.

In any event, the petitioner has no legal right to state that he should not be asked to vacate especially after his contract has expired by efflux of time.

Consequently, the present writ petition and the applications are dismissed with no order as to costs.

MANMOHAN, J

JULY 15, 2016
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