

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ LPA 497/2016 & CM Nos. 32768/2016 (stay) & 33638/2016  
(direction)

Pronounced on: September 22, 2016

M/S DEEPAK & CO.

.....Appellant

Through: Mr. Naresh Thanai with Mr. J.P.  
Singh & Mr. Himanshu Pathak,  
Advocates

Versus

UNION OF INDIA & ORS

....Respondents

Through: Mr. Jagjit Singh with Mr. Preet Singh,  
Advocates for Railways

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

: **Ms. G. ROHINI, CHIEF JUSTICE**

1. This appeal is preferred against the order dated 17.08.2016 passed by the learned Single Judge in W.P.(C) No. 7046/2016. The unsuccessful petitioner is the appellant before us.
2. The said writ petition was filed seeking a direction to the respondents to permit the petitioner to operate and manage the catering stalls situated at the Roorkee Railway Station, Rampur Railway Station and Chandausi Railway Station, Moradabad Division, Northern Railway till fresh contracts are awarded in respect of the same.
3. The learned Single Judge dismissed the writ petition placing reliance upon an order passed by this Court in **W.P.(C)No.6007/2016** titled *M/s*

***Surya Food and Agro Ltd. And Anr. V. Union of India & Ors.*** seeking similar relief and a decision of the Division Bench of the Allahabad High Court dated 05.05.2016 in **W.P.(C) No.20519/2016** titled ***M/s Surya Food and Agro Ltd. Anr. V. Divisional Railway Manager NCR & 6 Others.*** Hence, the present appeal.

4. We have heard the learned counsel for both the parties. As could be seen from the material available on record, the appellant herein/writ petitioner was operating catering stalls at the railway stations of Roorkee, Rampur and Chandausi. Admittedly, the period of the licenses in favour of the appellant expired in the year 2012. However, it is claimed that the licenses were renewed from time to time and accordingly, the appellant/petitioner continued to operate the stalls on payment of the license fees. While so, by letters dated 01.08.2016 and 03.08.2016 issued by the Station Superintendents, the appellant was directed to close the stalls with immediate effect. Aggrieved by the same, the appellant filed W.P.(C) No.7046/2016 contending *inter alia* that in the light of the circulars issued by the Railways, he is entitled to continue till new contracts are finalized in respect of the stalls in question. The learned Single Judge did not accept the said contention and held that the circulars do not confer any right of extension as the contracts of the petitioner have already expired by efflux of time.

5. It is vehemently contended by the learned counsel for the appellant that the impugned action of the respondents is arbitrary, illegal and discriminatory since other existing stall holders (minor static catering units) have been given an extension for a period of 6 months and have been

allowed to continue to operate and manage their stalls and trollies. Placing reliance upon the letter dated 13.07.2016 of the Chief Commercial Manager/Catering of the Northern Railway informing the Senior Divisional Commercial Managers of Ambala, Ferozpur, Moradabad, Delhi and Lucknow Divisions that administrative approval was accorded by AGM for extension of the existing minor static catering units for a period of 6 months from 21.07.2016 to 20.01.2017 or as per advise of the Railway Board whichever is earlier, it is also contended by the learned counsel for the appellant that there is no justifiable reason to deny the benefit of the said decision of AGM to the appellant.

6. By order dated 07.09.2016, we directed that an affidavit be filed by the concerned official of the Northern Railway with regard to the implementation of the decision of AGM for grant of extension to the existing minor static catering units.

7. In terms thereof, the Deputy Chief Commercial Manager/Catering, Northern Railway filed an affidavit dated 14.09.2016 stating that the decision taken by the Northern Railway vide letter dated 13.07.2016 for extension of the license period is not applicable to the licenses that were awarded by Indian Railway Catering and Tourism Corporation (IRCTC) and transferred to the Zonal Railway on the basis of the Catering Policy, 2010. It is also stated that the Northern Railway has not extended license of any minor catering unit which was granted license by IRCTC. It is further explained that the letter dated 13.07.2016 granting extension of license for a period of six months was issued in terms of the order of the Supreme Court dated 29.01.2016 in SLP(C) Nos.9921-23 of 2014 relating to various minor

static catering units running for the last more than 30 to 40 years and that the same has no application at all to the appellant herein.

8. It is sought to be explained by Sh.Jagjit Singh, the learned Counsel appearing for the respondents that the appellant herein was granted catering license initially by IRCTC and the same was transferred to Zonal Railway in the year 2010 as per the Catering Policy, 2010. The learned counsel has also brought to our notice Clause 26.1.1 of the Catering Policy, 2010 which provides that all existing operational catering licenses awarded by IRCTC and transferred to Zonal Railways will be governed by the existing Catering Policy, 2005 upto the validity of their contractual period. Pointing out that the license period of 5 years of the appellant as per the Catering Policy, 2005 had expired in 2012 itself and thereafter the appellant had operated the stalls on the basis of the extensions granted from time to time till 2016, it is contended by the learned standing counsel for the Railways that as per the Catering Policy, 2010, no licensee can be permitted to operate beyond 5 + 3 years (3 years extension).

9. The fact that the appellant herein was awarded the catering license initially by IRCTC has not been disputed by the learned counsel for the appellant. It is also not in dispute that the appellant was granted license in the year 2007 for a period of 5 years which had expired. It may be true that the appellant was granted extension and was allowed to operate till 2016, however, the same does not create any legal right of further extension which can be enforced by invoking the jurisdiction under Article 226 of the Constitution of India. The learned Single Judge was, therefore, right in declining to entertain the writ petition.

10. The order under appeal, therefore, warrants no interference. The appeal is, accordingly, dismissed.

**CHIEF JUSTICE**

**SANGITA DHINGRA SEHGAL, J**

**SEPTEMBER 22, 2016**

*'anb'*

