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

+ LPA 860/2015

INDIAN RAILWAY CATERING AND TOURISM CORPN. LTD.

..... Appellant

Through : Mr. Nikhil Majithia, Advocate.

Versus

M/S R K ASSOCIATES & HOTELIERS PVT LTD & ANR

..... Respondents

**Through : Mr. Manish K. Bishnoi and Mr. Venkat
Poonia, Advocates.**

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

08.08.2016

CM APPL. No. 28784/2015 (Delay)

The present application has been filed for condonation of delay of 134 days in filing the present appeal.

For the reasons stated in the application and in the interest of justice, delay in the filing the present appeal is condoned.

Application stands disposed of.

LPA No.860/2015

1. The respondent in W.P. (C) No.7095/2014/Indian Railway Catering and Tourism Corporation Ltd. (for short 'Corporation') filed the present appeal aggrieved by the order of the learned Single Judge dated 18.05.2015.
2. The said writ petition was filed by the respondent herein seeking a direction to the Corporation to extend his existing catering licence for the operation and management of Quick Service Food Kiosk at Vijaywada Station upto 09.11.2016 in terms of Clause 3.1 of General Conditions of Licence.
3. By the order under appeal dated 18.05.2015, the learned Single Judge allowed the writ petition holding:

“61. It is pertinent to mention here that vide order dated 16.10.2014, this Court directed the respondent to proceed with the process of selection with respect to Vijayawada license, however, it shall not be finalized. Thereafter, vide order dated 09.12.2014, the petitioner was permitted to run the Kiosk from existing premises till the next date of hearing, however, the said interim protection is still continuing.

62. It is clear from Clause 2.1 of the General Conditions of license that the petitioner paid the license fee for 8 years' tenure of the license. As per Clause 5.3 of the General Conditions of license, the contract was for five years to be extended for a further period of three years and the respondent/IRCTC shall issue a letter of award (LOA) to the selected bidder, that is, petitioner for a period of "5+3" years. No doubt, it is the discretion of the respondent to extend the licence or not and extension

may be denied by the respondent even without giving any reason, however, the decision should be rational and on some solid ground. There has been legitimate expectation of the petitioner as he had spent a huge amount in establishing the infrastructure. If there has been no infirmity on the part of the petitioner, then, in such an eventuality, the respondent/IRCTC had to give extension for three years. Moreover, the respondent had already granted three extensions for a period of six months, three months and three months and thereafter, this Court granted protection to the petitioner. Resultantly, the petitioner is still continuing.

63. It is also not in dispute that as per Clause 3.1 of General Conditions of license, total tenure of licence shall not exceed eight years in any case.

64. In view of the above discussion, I am of the considered opinion that the petitioner is entitled for the remaining period of its tenure, i.e., '5+3' years.

65. With the above observations, the present petition is allowed with no order as to costs."

4. When the appeal is taken up for consideration, it is submitted by the learned counsel for the appellant that even as per the order under appeal the writ petitioner was held to be entitled to operate and manage the Quick Service Food Kiosk for the remaining period of its tenure i.e. 09.11.2016 and since the said period would come to an end in another three months, no purpose would be served by adjudicating the appeal on merits of the case. The learned counsel for the appellant, on instructions, therefore states that

the appeal may be disposed of without going into the merits of the case, however, the question of interpretation of renewal clause may be left open for consideration in an appropriate case.

5. Accordingly, without going into the merits of the case, we dispose of the present appeal reiterating the directions of learned Single Judge in the order under appeal. However, interpretation of the renewal clause in the agreement in question is left open to be considered in an appropriate case.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

AUGUST 08, 2016/gr