

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3960/2017

(M/s Naivedhyam Food Products, Nagpur vs. The Divisional Railway Manager, Nagpur)

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 of directions and Registrar's orders

Court's or Judge's order

Mr. A.S. Kilor, Adv. for petitioner
 Mr. N.P. Lambat, Adv. for respondent

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
DATED : 28th November, 2017.

1. Heard for some time.
2. Question is, whether contrary to Clause 18.3 of Railway Board Policy Circular stipulating that for a renewal of license already allotted, licensee fee shall be worked out in proportion to actual sales, departmental heads can fix the license fee looking into license fee fetched in auction of neighbouring stall.
3. The petitioner had paid agreed license fee upto 31.3.2017 but then it was revised from 1.12.2016 onwards. It has paid that amount also upto 30th September, 2017 and has surrendered possession because of absence of business.
4. Prayer in the petition is to direct respondents to follow Clause 18.3 and to disregard the proceedings of meeting of the Head of the departments.

5. During hearing, Adv. Lambat has pointed out that in agreement between parties, vide Clause 10.1 there was a provision for arbitration and a dispute or difference arising under the conditions of license or in connection with license, is to be referred to arbitration.

6. We find that above question therefore needs to be looked into by the competent arbitrators, in terms of provisions of Arbitration and Conciliation Act 1996, as amended.

7. Hence, keeping all contention of parties open, we direct parties to proceed further to appoint Arbitrator. Such Arbitrator shall attempt to decide controversy as per law, at the earliest.

8. The parties shall appoint Arbitrator within four weeks from today and the Arbitrator shall, after assuming office, complete proceedings within next three months.

9. If in the meanwhile, any steps in relation to allotment of stall to some other person are taken, the same shall be subject to outcome of the arbitration proceedings.

10. Accordingly, with these observations and directions, we dispose of the Writ Petition. No costs.

JUDGE

JUDGE