

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A.No.201 of 2017

G.Barathi Appellant /Petitioner

versus

- 1 The General Manager
Southern Railway
Park Town, Chennai-600003
- 2 The Senior Divisional
Commercial Manager Southern Railway
Chennai Division Chennai-600003
- 3 The Divisional Commercial
Manager Southern Railway Chennai Division
Commercial Branch Chennai-600003 ... Respondents/
Respondents

Appeal filed to set aside the order dated 19/01/2017 in WP No.1276/2017.Petition filed under Article 226 of the constitution of India to issue a writ of certiorarified mandamus to call for the records in NO.M/c.79/ CS/ SMU-5/ MAS dated 03.01.2017 issued by the 2nd respondent and to quash the same and forbearing the 1st & 2nd Respondents terminating the petitioners license in respect of Catering Stall SMU-5 Chennai Central.

For appellant : Prof.M.Udayabhanu

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The appellant is a licensee of three eateries in the suburban railway stations at Mambalam, Saidapet, Egmore and another at Chennai Central. The Senior Divisional Commercial

Manager, issued a show cause notice to the appellant on 3 January 2017 to show cause as to why action should not be taken for her failure to provide satisfactory services to the customers and debar her from participating in the future contracts floated by the Indian Railways.

2. The appellant challenged the show cause notice before the writ court in W.P.No.1276 of 2017 primarily on the ground that she was not given translated version of the show cause notice. The Writ Petition was dismissed by the learned Single Judge with an observation that it would be possible for the appellant to give a detailed reply after translating the show cause notice if necessary. Feeling aggrieved, the appellant has come up with this intra court appeal.

3. The learned counsel for the appellant contended that the appellant is not well versed in English and as such, it would not be possible for her to give a reply to the show cause notice. According to the learned counsel, Railways wanted the license to be given to others and the show cause notice was issued with ulterior motives.

4. The Railways issued a notification in English calling for applications for granting license, to set up a shop to sell eatables in the Chennai Central Railway Station. The appellant participated in the auction and ultimately, she was granted the privilege. The appellant has been running the catering stall at Chennai Central Railway Station. She is running similar stalls in three other Suburban railway stations near Chennai. The appellant is therefore having sufficient expertise to run the catering establishment. The appellant entertained several correspondence with the Divisional Commercial Manager, Chennai. All such correspondence are in English. The typed set of papers produced by the appellant contain the correspondence exchanged by her with the railways.

5. The show cause notice issued by the Senior Divisional Commercial Manager to the appellant contains the details of violations. The Railways issued the show cause notice on the basis of complaints received from the customers alleging sale of sub standard food items, and pursuant to the inspection conducted by the officials. The appellant instead of giving explanation to the show cause notice, rushed to the writ court with the Writ Petition contending that she should be given show cause notice in Tamil.

6. The appellant had no grievance when the notification for granting license was issued in English. She took part in the auction. The appellant executed an agreement with the Railways. The agreement is in English. The signature of the appellant and

the endorsement made by her in various documents clearly shows that she is conversant in English. It was only to delay the matter, the appellant approached the Court with a grievance that it would not be possible for her to give reply, unless Tamil translation is given. The appellant having took part in the auction and executed the agreement, is bound by its terms and conditions. The Railways reserved right to take action in case there is violation of the terms and conditions of the license. It is for the appellant to produce materials before the Railways to substantiate her contention that she was not involved in acts prejudicial to the interest of the consumers.

7. The learned single Judge was correct in directing the appellant to give reply to the show cause notice. We do not find any error or illegality in the said order warranting interference.

8. We are informed that the time permitted by the learned Single Judge to submit the explanation expired today. We extend the time till 3 March 2017. It is open to the appellant to take up all the contentions before the Appropriate Authority. In case the appellant fails to submit her reply within the time permitted by this Court, it is open to the concerned authority to pass appropriate orders on merits and as per law.

9. The intra court appeal is disposed of with the above direction. No costs. Consequently, C.M.P.No.3218 of 2017 is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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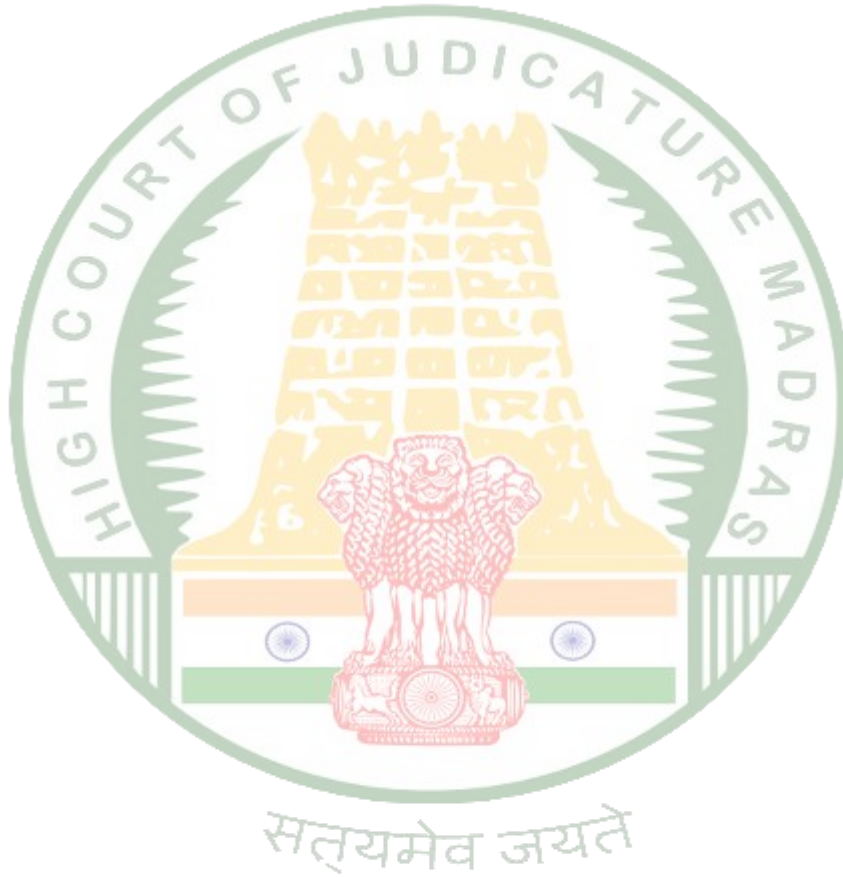
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W.A.No.201 of 2017



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