

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2017

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The Hon'ble Mr. Justice B. Rajendran

W.P.No.13739 of 2016

and

W.M.P.No.12033 of 2016

Esquire Express Logistics Pvt. Ltd.,
rep. by its Authorized Person,
B.Sandeep Shukla.

... Petitioner

Vs.

1. The General Manager
Southern Railway,
Moore Market Complex,
Chennai - 600 003.
2. The Chief Commercial Manager (Freight Marketing)
Southern Railway,
Moore Market Complex, 5th Floor,
Chennai - 600 003.
3. The Chief Commercial Manager
O/O the General Manager,
Southern Railway, Park Town,
Chennai - 600 003.
4. The Deputy Chief Commercial Manager (FM)
Southern Railway,
Moore Market Complex,
Chennai - 600 003.
5. The Executive Director (Freight Marketing)
Railway Bhavan, Ministry of Railways,
New Delhi- 110 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus directing the respondents to immediately issue the letter of acceptance in favour of the petitioner with regard to Parcel Cargo Express Train Schedule to run from Korukkupet to Shakurbasti in terms of the tender notice dated 18.12.2015.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel for
Mr.M.A.Gouthaman

For Respondents : Mr.V.G.Suresh Kumar

O R D E R

The prayer in the Writ Petition is for issuance of mandamus to the respondents to issue the Letter of Acceptance in favour of the petitioner, in regard to the tender, called for leasing of Parcel Space in Parcel Cargo Express Train, scheduled to run from Korukkupet to Shakurbasti, in terms of the Tender Notice, dated 18.12.2015.

2. Heard Mr.AR.L.Sundaresan, learned Senior Counsel for Mr.M.A.Gouthaman, learned counsel for the petitioner and Mr.V.G.Suresh Kumar, learned counsel for respondent-Railway Department, and perused the materials placed on record.

3. The facts of the case, in a nutshell is as follows:-

i) The petitioner is a Private Limited Company, engaged in the business of transportation of goods through Parcel Vans in different trains and other allied works, such as pick-up, delivery, etc.

ii) The Southern Railway floated a tender, calling for lease of parcel space in Parcel Cargo Express Train, vide notice, dated 18.12.2015. The petitioner participated in the tender, and has been declared as the highest bidder. Since the petitioner has been declared as the highest bidder, they were under an earnest belief and expectation that they would be issued with Letter of Acceptance/Allotment (LOA) for award of contract. The petitioner, hoping that, they may be issued with LOA at any point of time, also made necessary arrangements for execution of the contract work. Since the LOA was not forthcoming, the petitioner met the respondent-Southern Railway Authorities and came to know that, notice has been issued by the Eastern Railway Authorities to the respondent-Southern Railway Department, indicating that there are certain amounts due and payable by the petitioner with regard to some other contracts.

iii) The case of the petitioner is that, no such notice of demand was issued to them. It is seen that, alleging non-payment of dues, the Eastern Railway Authorities have issued four notices, out of which, one notice is dated 11.07.2014, and other three notices are dated 28.07.2014, thereby, cancelling the registration of the petitioner-Company. Challenging the notice dated 11.07.2014, the petitioner filed a Writ Petition, in W.P.No.21949 of 2014, before the Hon'ble High Court of

Calcutta, wherein, an order of stay was granted, staying the operation of the impugned notice, dated 11.07.2014. Against the said stay order, the Railway Authorities preferred an Appeal before the Hon'ble Division Bench, and the Division Bench passed an order, holding that the notice, dated 11.07.2014, shall be treated as rescinded and given liberty to the Railway Authorities to issue fresh notice to the first respondent, who is the petitioner herein. Insofar as other three notices are concerned, dated 28.07.2014, the same were put to challenge by way of filing separate Writ Petitions before the High Court of Calcutta, and all those Writ Petitions were allowed, and the notices, dated 28.07.2014, were set aside.

iv) Now, the case of the petitioner is that, when the notices regarding cancellation of their registration were quashed by the Hon'ble High Court of Calcutta, there is no impediment for the respondent-Southern Railway Authorities, in issuing LOA in favour of the petitioner. The petitioner also, vide letter, dated 14.03.2016, informed the respondent-Southern Railway Authorities that the notices issued by the Eastern Railway Authorities with regard to the alleged dues have been quashed by the Hon'ble High Court of Calcutta. Subsequently, the petitioner made a requisition, dated 06.04.2016, seeking for issuance of LOA. Since the said requisition evoked no response, the petitioner, feeling aggrieved, has approached this Court by way of filing the present Writ Petition seeking for appropriate orders.

4. The respondent-Southern Railway Department have filed a counter affidavit as well as additional counter affidavit, stating that the period of the tender, called for leasing of parcel space in the Parcel Cargo Express Train, vide notice, 18.12.2015, itself was valid till 09.05.2016, and since this Court, at the time of entertaining this Writ Petition has granted an order of Status-quo on 13.04.2016, the Tender Committee Meeting, which was slated to be held on 22.04.2016 did not take place. In the meantime, the Railway Board took a policy decision, and issued guidelines, vide circular dated 15.06.2016, specifically mentioning that, where, LOA for award of leasing contract has not been issued to the party, the Zonal Railway will cancel all such tenders, and owing to issuance of such guidelines, the Railway Administration is not processing the tender, which is the subject matter of this Writ Petition. Therefore, the respondent-Railway Department prayed that the same may be recorded and the Writ Petition may be disposed of.

5. Thus, taking into consideration the solemn additional affidavit filed by the respondent-Railway Department, termed as 'further affidavit', wherein, it is clearly stated that, in obedience to the order of Status-quo granted by the Court in

this Writ Petition, Tender Committee meeting did not take place on the scheduled date, i.e., on 22.04.2016, and that, the period of the tender itself was over on 09.05.2016, and pursuant to the guidelines issued by the Railway Board, vide circular, dated 15.06.2016, the Railway Administration is not processing the tender itself, which is the subject matter of this Writ Petition, this Court is of the view that, nothing survives in this Writ Petition for further adjudication.

6. In the result, the Writ Petition is closed, as no further orders are required. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The General Manager
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5. The Executive Director (Freight Marketing)
Railway Bhavan, Ministry of Railways,
New Delhi- 110 001.

+1cc to Mr.Gouthaman, Advocate, S.R.No.9813

+1cc to Mr.Suresh kumar, Advocate, S.R.No.9541

W.P.No.13739 of 2016

SS (CO)

RS (26/04/2017)