

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.21181 of 2017
and
W.M.P.No.22077 & 22078 of 2017

R.Ramesh

... Petitioner

Vs

1.The Senior Divisional
Commercial Manager,
Divisional Head Quarters,
Commercial Branch,
Southern Railway,
Salem - 636 005.

2.The Divisional Commercial Manager,
Divisional Head Quarters,
Commercial Branch,
Southern Railway,
Salem - 636 005.

.... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari calling for the records of the impugned order dated 03.08.2017 made in No.SA/C/219/PLRU/Vol.II/09 passed by the first respondent and quash the same.

For Petitioner : Mr.M.R.Jothimanian

For Respondents: Mr.P.T.Ramkumar,
Standing Counsel (Railway)

O R D E R

Mr.P.T.Ram Kumar, learned Standing Counsel, takes notice for the respondents. By consent, the main Writ Petition is taken up for disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petition to issue a writ of certiorari to call for the records of the impugned order dated 03.08.2017 passed by the first respondent and to quash the same.

3.According to the petitioner, he established an agency under the Southern Railways at Paramathivellur for dealing with passengers, luggages and also goods traffic. The license was granted by the respondents on 29.08.2003 by entering an

agreement with the petitioner. The license was periodically extended upto 19.11.2018. While so, on 03.08.2017, the first respondent passed the impugned order dated 03.08.2017, terminating the license to run the agency at Paramathivellur stating that serious irregularities were detected during the surprise check by the Vigilance Department. Challenging this order, the petitioner has filed the above writ petition.

4.Mr.M.R.Jothimanian, learned counsel appearing for the petitioner submitted that the impugned order has been passed by the first respondent without giving an opportunity to the petitioner, to give an explanation and also submitted that no show cause notice was issued to the petitioner so far.

5.Mr.P.T.Ram Kumar, learned Standing Counsel appearing for the respondents submitted that the impugned order has been passed only for the reason that the Vigilance Department had detected serious irregularities against the petitioner, which prompted the first respondent to issue the impugned order dated 03.08.2017 terminating the agency. However, the learned counsel submitted that since no show cause notice is issued prior to the passing of the impugned order, the order may be set aside and the second respondent may be directed to issue a show cause notice and thereafter, decide the matter in accordance with law.

6. Having regard to the submissions made by the learned counsel on either side and taking note of the fact that the respondents have not issued any show cause notice prior to the passing of the impugned order dated 03.08.2017, which is violative of principle of natural justice, the impugned order is liable to be set aside. Accordingly, the impugned order dated 03.08.2017 passed by the first respondent is set aside. The second respondent shall issue a show cause notice to the petitioner, within a period of one week from the date of receipt of a copy of this order and the petitioner is granted two weeks' time from the date of receipt of issuance of the show cause notice, for giving a reply. After the receipt of the reply, the respondents shall decide the matter afresh, after affording an opportunity of the personal hearing to the petitioner. Till such time, the parties are directed to maintain Status Quo.

7.With these observations, the writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Senior Divisional Commercial Manager,
Divisional Head Quarters,
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Southern Railway,
Salem - 636 005.

2.The Divisional Commercial Manager,
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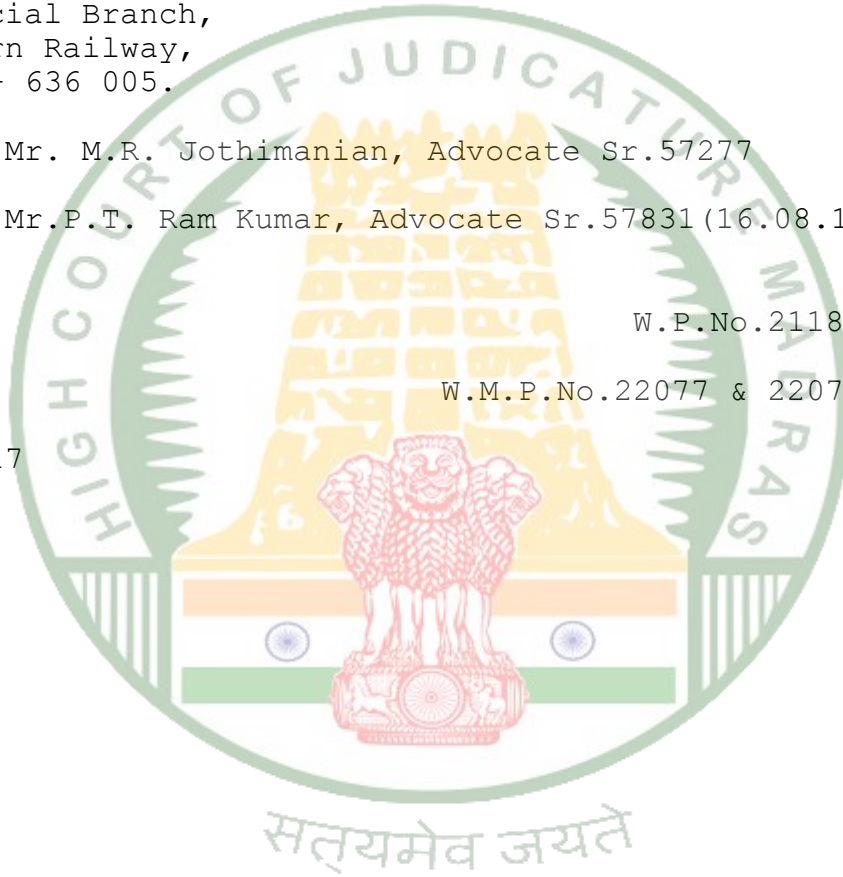
+ 1 cc to Mr. M.R. Jothimanian, Advocate Sr.57277

+ 1 cc to Mr.P.T. Ram Kumar, Advocate Sr.57831 (16.08.17)

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EU 10.07.17



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