

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2017

Coram

The Hon'ble Mrs.Justice V.BHAVANI SUBBAROYAN

W.P.No.16446 of 2002
and W.P.M.P.No.22064 of 2002

Bulk Mailing Agents Association,
represented by its Secretary,
40, II Floor, Model School Road,
Thousand Lights,
Chennai - 600 006.Petitioner

Vs.

1. The Union of India,
represented by its Secretary,
Department of Communication,
New Delhi.
2. The Director General of Posts.
New Delhi.
3. The Chief Post Master General,
Tamil Nadu Postal Circle,
Anna Road, Chennai - 600 002.
4. Senior Superintendent of Post Offices,
Chennai Central Division,
Chennai - 600 017.
5. Senior Superintendent of Post Offices,
Chennai South Division,
Chennai - 600 034.
6. Senior Superintendent of Post Offices,
Chennai North Division,
Chennai - 600 023.
7. Chief Post Master,
Chennai G.P.O
Chennai - 600 001.
8. Cheif Post Master
Anna Road,
Chennai - 600 002.

9. Senior Superintendent,
R.M.S. Chennai Sorting
Division, Chennai - 600 008.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the 3rd respondent in No. Tech/100-141/2001 dated 23.11.2001 and quash the same.

For Petitioner : No Appearance

For Respondents 1 to 9 : Mr.V.Balasubramanian

ORDER

The writ petition has been filed to issue a Writ of Certiorari, calling for the records of the 3rd respondent in No. Tech/100-141/2001 dated 23.11.2001 and quash the same.

2.The petitioner who is M/s.Bulk Mailing Agents Association represented by its secretary having office at No.40, II floor, Model School Road, Thousand Light, Chennai, has alleged in the petition that deeply aggrieved by the unilateral action of the 3rd respondent in issuing instructions to respondents 4 to 9 whereby a decision has been taken not to renew existing licenses or grant new licenses for commercial franking machines. the petitioner association approached this Hon'ble Court.

3.The petitioner has alleged that the Postal Department in order to deal with the overwhelming increase in demand for sending letters, covers, etc. through post and the ever increasing need for streamlining the above, decided to issue licenses to persons for use of franking machines on an individual and commercial basis, in order to reduce the workload of postal department in the early 1980's. which was also convenient to the general public, since there is no necessity for purchasing individual stamps for each and every cover/envelope and pasting the same.

4. The petitioner had further submitted that the Government of India grant license to any person who is interested in being the licensee for the said franking machines and also to authorize such licensees to use the franking machines in accordance with the terms and conditions framed by the Government of India and amended from time to time and lastly on 08.04.1996. The system was also considered to be a foolproof system on the postal department. The Government of India introduced specific rules under which licenses were to be issued and the same was subsequently amended in the years 1984 and

1985. In the year 1996 major changes were to be introduced by which, the Government of India incorporated exhaustive rules with regard to the franking machine operators, it is only the Director General of Posts who was entitled to alter, vary or supplement the conditions of licenses and no other person was authorized to do so.

5. While this was the position, the 3rd respondent issued a circular dated 23.11.2001 to all the Franking Machine Licensing authorities to review the scheme of issuance of commercial licenses to the franking machine operators and sought to pass an order that no fresh licenses should be issued to commercial licensees and the existing licenses also ought not to be renewed nor should the commercial licensees be permitted to add any new clients to their existing list.

6. The petitioner had submitted in his petition that circular dated 23.11.2001 issued by the 3rd respondent made discrimination between the persons, who are carrying on the work of franking under license in the State of Tamil Nadu from other private franking licensees situate in other states. Any policy decision taken under the Indian Post Office Act, 1898 is to be applicable uniformly through out the territory of India and no distinction can be made between States in this regard and as such, circular dated 23.11.2001 is violative of Article 14 of the Constitution of India. The petitioner states that even though the policy decision involves nationwide consequences, the respondents are unilaterally imposed new conditions in the license and has virtually taken a policy decision to terminate the licenses forthwith. The grievance of the petitioner is that, pursuant to the circular dated 23.11.2001, they are not permitted to undertake franking of bulk mailing, by which the income of the petitioner was gravely affected. Therefore the petitioner prayed this Court to:-

a. dispense with the production of the original of impugned circular No. Tech/100-141/2001 dated 23.11.2001 issued by the 3rd respondent;

b. grant interim stay of the circular No. Tech/100-141/2001 dated 23.11.2001 issued by the 3rd respondent and all proceedings pursuant thereto, pending disposal of the writ petition;

c. grant interim injunction restraining the respondents 4 to 9 from in any manner seeking to implement or enforce the Circular No. Tech/100-141/2001 dated 23.11.2001 issued by the 3rd respondent pending disposal of the writ petition;

d. issue a writ, or any other writ, order or direction in the nature of a writ of certiorari, calling for the

records of the 3rd respondent in No.Tech/100-141/2001 dated 23.11.2001 and quash the same as being arbitrary, illegal and without jurisdiction.

7. When the Writ Petition was taken up on 29.06.2017, Mr.Abhinav Parthasarathy, learned counsel representing Mr.Rahul Balaji, learned Counsel on record for the petitioner submitted that there was no instruction from the petitioner. Hence this Court directed the Registry to print the name of the petitioner in the cause list and post the Writ Petition today i.e., on 30.06.2017. Even though the name of the petitioner viz., M/s.Bulk Mailing Agents Association represented by its Secretary, having office at No.40, II floor, Model School Road, Thousand Light, Chennai-6, was printed in the cause list, neither the petitioner nor the counsel representing the petitioner appeared today ie., on 30.06.2017.

8. The matter was pending from the year 2002 and the interim order granted on 15.05.2002 was made absolute on 14.08.2003 by the Hon'ble Court. Counter has been filed by the Respondents stating that request for renewal of licenses have been rejected in the interest of public service, there is no substance in the averments made in the writ petition that the non renewal of license is discriminatory or offend article 14 of the Constitution. When the Writ Petition was taken up today i.e., 30.06.2017, the learned counsel appearing for the respondents would submit that the Franking Machine (Electric Machine) License has been abolished by the Central Government. Hence the Indian Post Office or any other person is not using the Franking Machines System any more. Therefore, the learned counsel appearing for the respondents would submit that the Writ Petition has become infructuous and seek for dismissal of the writ petition. The said submission is recorded.

9. In view of the submission made by the learned counsel appearing on behalf of the respondents, the Writ Petition has become infructuous and the same is dismissed. No costs. Consequently, connected miscellaneous petition also stands closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Union of India,
represented by its Secretary,
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New Delhi.
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Division, Chennai - 600 008.
- + 1 cc to M/s.Bala Subramanian, Advocate, SR.45825

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NR 24/07/2017