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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A(MD)Nos.277 and 278 of 2017

R.Balaguru

.. Appellant in
W.A.No.277

R.Baskaran

.. Appellant in
W.A.No.278

Vs.

1.The Divisional Railway Manager,
Southern Railways,
Madurai.

2.The Senior Divisional Commercial Manager,
Southern Railways,
Madurai - 625 016.

3.The Chief Commercial Inspector
Southern Railways, Manamadurai.

4.The Station Superintendent
Ramanathapuram Railway Station,
Ramanathapuram District.

.. Respondents

Writ Appeals filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD) Nos.23955 and 23956/2016 dated 25.01.2017.

Prayer in WP(MD). 23955/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to grant permission to run sweet stall at Ramanathapuram Railway Station as per the proceedings of the 2nd respondent dated 20.12.2012 and considering the recommendation of the 4th respondent dated 22.09.2014 and 01.08.2015.

Prayer in WP(MD). 23956/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to grant permission to run Combined Fruit and Vegetarian Tea stall at Ramanathapuram Railway Station as per the proceedings of the 2nd respondent dated 24/27.12.2012 and considering the recommendation of the 4th respondent dated 22.09.2014.



For Appellants : Mr.V.Panneer Selvam
For Respondents : Mr.S.Manohar
Standing counsel for Railways

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COMMON JUDGMENT

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**)

These writ appeals are directed against the common order in W.P.Nos.23955 and 23956/2016 dated 25.01.2017.

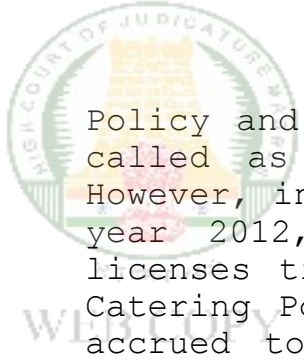
2. The appellants have applied to the respondents for allotment of an area in the Railway Station at Ramanathapuram for setting up a Sweet Stall and combined fruit and vegetarian tea stall. The appellants' applications were considered and found to be eligible and they were subjected to selection process and they were selected. The appellants were issued licenses by orders dated 20.12.2012 and 27.12.2012 respectively. The appellants have remitted the requisite amount and the receipt of the same has been duly accounted by Receipts dated 03.01.2013 and 09.01.2013 and thereafter, the appellants stated to have been given representations to permit them to establish the stall. However, ultimately, by order dated 01.08.2015, the allotment was cancelled on the ground that the appellants did not submit a rough sketch to enable the authorities to prepare the final sketch for location of the Sweet Stall and combined fruit and vegetarian tea stall.

3. We have elaborately heard the learned counsel for the appellants and the learned standing counsel for the respondents.

4. The learned standing counsel for the respondents Railway Administration has produced the original files.

5. Before we go into the merits or the contentions, we observe that a normal and prudent business man will never stand to benefit by partly submitting a sketch or complying with the terms of selection. In the instant case, the appellants specifically pleaded that the sketch has to be prepared by the officials, as nobody can enter and do any commercial activity in a railway platform without specific permission of the Station Superintendent. Thus, we wanted to know as to whether the delay occurred had attributable to the appellants. When we called for the original files and perused the same, we find the communication of the Chief Commercial Inspector, Southern Railway, Manamadurai, addressed to the Junior Engineer, dated 28.05.2013.

6. On a reading of the said communication, it shows that the delay in preparation of rough sketch is on the official side. Therefore, we are of the firm view that such delay should not be put against the appellants. The learned standing counsel submitted that the appellants were granted licenses under the erstwhile Catering



Policy and as of now, a revised Catering Policy has come to vogue called as Catering Policy 2017 superseding the earlier policy. However, in the instant case, though the licenses were issued in the year 2012, the respondents took no action, but cancelled the licenses till 2015 and during the relevant point of time, the old Catering Policy was in vogue. Therefore, whatever benefits, which accrued to the appellants, pursuant to the licenses, which were granted to them, should enure to their benefit till the currency of the license period, which will come to an end in December 2017.

7. One more submission is made that the category of the station, where stalls were permitted to be erected, has been upgraded and higher license fee is required to be paid.

8. The learned counsel for the appellants, on instructions, submits that the appellants are ready and willing to pay higher license fee.

9. For all these reasons, the impugned orders are set aside and the writ appeals are allowed by directing the respondents to permit the appellants to erect the stalls in the place earmarked by the officials and pay the differential amount of license fee on the ground of upgradation of the Railway Station and they shall be permitted to continue till December 2017 and not further. No costs.

Sd/-

Assistant Registrar (C)

/True copy/

Sub Assistant Registrar

To

1. The Divisional Railway Manager,
Southern Railways,
Madurai.

2. The Senior Divisional Commercial Manager,
Southern Railways,
Madurai - 625 016.

3. The Chief Commercial Inspector
Southern Railways, Manamadurai.

4. The Station Superintendent
Ramanathapuram Railway Station,
Ramanathapuram District.

+2 CC to MR.V.PANNEER SELVAM, Advocate, SR No. 51405 & 51407/17.

+2 CC to MR.S.MANO HAR, Advocate, SR No. 51434 & 51435/17.

RR

PSM/RR/20.04.2017/3P/9C