



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.01.2017
CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

WEB COPY

W.P(MD)No.23955 and 23956 of 2016

R.Balaguru

.. Petitioner in W.P(MD)No.23955 of 2016

R.Baskaran

.. Petitioner in W.P(MD)No.23956 of 2016

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

Prayer in W.P(MD)No.23955 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India 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 fourth respondent dated 22.09.2014 and 01.08.2015.

Prayer in W.P(MD)No.23956 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India 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 fourth respondent dated 22.09.2014.

For Petitioner
in both WPs : Mr.V.Panneer Selvam

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents
in both WPs : Mr.S.Manohar

**COMMON ORDER**

In both these writ petitions, the respective writ petitioners seek for a direction to the respondents to grant permission to run Stall at Ramanathapuram Railway Station, as per the proceedings of the second respondent dated 20.12.2012 and 24/27.12.2012 by considering the recommendation of the fourth respondent, dated 22.09.2014 and 01.08.2015.

2.The respondents invited applications from the interested persons for applying for license to run Stalls at Ramanathapuram Railway Station. The petitioners applied for such license on 10.01.2011 and 07.01.2011 respectively. After scrutinizing the applications and interviewing the petitioners, the Senior Divisional Commercial Manager issued a communication to the petitioners on 20.12.2012 and 24/27.12.2012 granting license for running Sweet Stall and Fruits and Vegetarian Tea Stall respectively for a period of five years subject to certain terms and conditions.

3.The grievance of the petitioners herein is that even though they remitted the annual license fee and the security deposit, they were not permitted to run the stall without any valid reasons. Therefore, they have chosen to file the present writ petitions on 11.12.2016 seeking for the relief as stated supra.

4.The respondents filed a counter affidavit disputing the claim made by the petitioners. It is stated therein that the petitioners, though remitted the annual license fee and security deposit, had failed to commence the stall and also failed to sent the rough sketch showing location of the stall for approval. It is also stated that provision of stall structure was inordinately delayed. It is further stated in the counter that any number of representations made by the petitioners without submitting a rough sketch within the stipulated time cannot be considered.

5.Rejoinder affidavit is filed by the petitioners disputing those contentions raised by the respondents.

6.Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondents.

7.It is not in dispute that the petitioners were granted the license for running respective stalls at Ramanathapuram Railway Station for a period of five years through the communication issued by the Senior Divisional Commercial Manager, dated 20.12.2012 and 24/27.12.2012 subject to certain terms and conditions.

<https://hcservices.ecourts.gov.in/hcservices/>

8.Perusal of the terms and conditions would reveal that the petitioners should provide a structure of the stall measuring 10 x



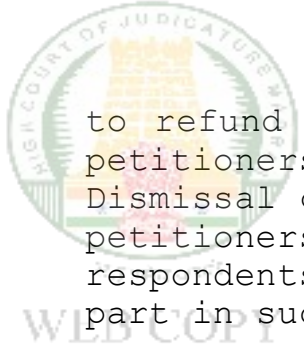
6 feet and before providing such structure, they should sent rough sketch showing the location of the stall for approval of the respondents and the same should be counter signed by the Station Master, Ramanathapuram. It is further stated therein that after getting approval of the plan from the Office, the stall should be provided under the supervision of the authority. Another condition stipulated therein is that the petitioners should execute an agreement with railway administration before commencement of the contract. Clause No.13 of the conditions specifically contemplates that the petitioners should commence the service of the stall within one month from the date of receipt of the said communication.

9.It is an admitted case of the petitioner that they provided the plan only on 13.11.2014, whereas it is the case of the respondents that the petitioners have not provided the rough sketch/plan within the time stipulated in the proceedings, dated 20.12.2012. Therefore, the fact remains that there was some dispute between the parties with regard to the provision of rough sketch commenced from the date of issuance of the license and the petitioners is said to have finally furnished the same on 13.11.2014. When the petitioners have to execute an agreement with the Railway administration before commencement of the contract and that they should commence service of the stall within one month from the date of receipt of the communication, dated 20.12.2012, what prevented the petitioners from approaching the Court at that point of time itself when they have some grievance against the respondents, is not known. Thus, it is evident that after issuing such license, they have left over the matter for nearly four years and thereafter, approached this Court in the month of December 2016 by filing these writ petitions that too at the end of the license period.

10.It is stated by the respondents that in the meantime, the category of the station has also been changed and therefore, there is no purpose in considering the petitioners' case even for running the stall for the remaining one year period.

11.Considering all these facts and circumstances, I am of the view that the discretionary jurisdiction of this Court under Article 226 of the Constitution of India need not be exercised, as the petitioners have approached this Court at the belated stage.

12.Accordingly, both the writ petitions are dismissed. However, since the petitioners have already paid license fee and also made their security deposit and in view of the fact that they have not commenced running of the stall at all, there is no justification on the part of the respondents Railways to retain the same. Therefore, the petitioners are entitled for refund of the same. Accordingly, though the prayer sought for in these writ petitions is not granted, the respondents are directed



to refund the license fee and security deposit to the respective petitioners, if the same is not refunded to them so far. Dismissal of these writ petitions will not stand in the way of the petitioners in taking part in the fresh tender process and the respondents should not disqualify them in any manner in taking part in such process, if they are otherwise qualified. No costs.

Sd/-
Assistant Registrar (CO)

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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.4551 &4552
+2 cc to Mr.S.Manohar,Advocate,Sr.No.4439 &4437

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