



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRA BAABU

W.P (MD) No.24552 of 2016
and W.M.P. (MD).No.17703 of 2016

S.Rabik Raja

.. Petitioner

vs.

The Divisional Railway Manager (Commercial)
Southern Railways,
Divisional Office,
Commercial Branch,
Tiruchirappalli.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the proceedings of the Impugned Order in T/C 79/FVL.R/BAL dated 17.11.2016 on the file of the Respondent and quash the same and further directing the Respondent to permit the petitioner to pay the license fee with interest in accordance with clause I of the letter of allotment dated 25.04.2016.

For Petitioner : Mr. G.Prabhu Rajadurai
For Respondents : Mr. S.Manohar

O R D E R

This petitioner is aggrieved against the order passed by the respondent dated 17.11.2016 wherein, the letter of allotment dated 25.04.2016 granted to the petitioner for running a Fruit and Vegetarian Light Refreshment Stall at Boothaloor Railway Station was cancelled also by forfeiting the security deposit of a sum of Rs.46,560/-, further by indicating that the petitioner is debarred from participating in future similar contracts of the Railway for a period of one year.

2. The case of the petitioner is that even though the petitioner has paid security deposit of Rs.46,560/- in time and carried out the renovation work at the stall by spending huge sum, he could not make the payment of license fee of Rs.2,16,000/- stipulated, since his daughter was hospitalized and he had to spend money for her treatment. Therefore, it is contended by the learned counsel for the petitioner that the said



amount of Rs.2,16,000/- may be permitted to be paid with interest and consequently, the petitioner may be permitted to run the stall.

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3. A counter affidavit is filed by the respondent, wherein, it is stated that though the petitioner was given sufficient opportunity for making payment of license fee on several occasions, he has not utilized the same, which has resulted in passing the impugned order. The learned counsel for the respondent further submitted that pursuant to the issuance of the impugned order, fresh tender was called for and the tender applications are to be opened on 24.01.2017.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent and perused the materials placed before this Court.

5. It is not in dispute that the petitioner was given a letter of allotment to run the stall, however, subject to the payment of license fee of Rs.2,16,000/- apart from the payment of Rs.46,560/- as security deposit. It is not in dispute that the petitioner has paid the security deposit of Rs.46,560/- on 25.05.2016 and carried out the renovation works at the stall. But the fact remains that the petitioner has not paid the license fee within the time. However, the respondent has not disputed the reasons stated by the petitioner in not making such payment in time. It is the case of the petitioner that his daughter has fallen sick and was hospitalized and therefore, he had to spend money for her treatment.

6. Therefore, this Court is of the view that the petitioner should be given final opportunity to make such payment of the license fee, so as to enable him to run the stall, as admittedly he has spent money for renovating the shop as well. At the same time, since the petitioner has delayed in making payment resulting the lapse of about six months period in between, the petitioner is not entitled to get back the security deposit, which has been forfeited by the respondent. At the same time, the petitioner is entitled to run the stall from the date of making payment of license fee till the end of the license period as stipulated in the original letter of allotment. Hence, the impugned order in so far as the cancelling the letter of allotment and de-barring the petitioner in participating in the future contracts is set aside. The impugned order in so far as forfeiting the security deposit amount is concerned, is upheld.

7. In the result, this writ petition is partly allowed on

<https://hcservices.courts.gov.in/services>

a) The petitioner shall make the license fee of Rs.2,16,000/- with interest at the rate of 14% from the



date of it's due till the date of payment within a period of two weeks from the date of receipt of copy of this order.

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b) On receipt of license fee with interest as stated supra, the respondent shall issue the license to the petitioner to run the shop till the end of the license period as stipulated in the original letter of allotment.

c) The petitioner shall not seek for extension of time after completion of license period on any account.

No costs. Consequently, connected W.M.P.(MD) No.17703 of 2016 is closed.

Sd/
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar.

To,
The Divisional Railway Manager (Commercial), Southern Railways,
Divisional Office, Commercial Branch, Tiruchirappalli.

+1CC to M/S.G.Prabhu Rajadurai, Advocate, SR.No. 2141
+1CC to M/S.S.Manohar, Advocate, SR.No. 2376

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