

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION Nos.21404, 28464 & 35453 of 2016

COMMON ORDER:

These three Writ Petitions are being disposed of by this common order with the consent expressed by the counsel on both sides, as the point involved is common.

2. The petitioners in all the three cases are licencees of catering stalls running under a licence and whose licences expired. They applied for renewal of their licences. This Court in W.P.No.14577 of 2013 and batch dated 16.08.2013, disposed of the cases when a challenge was made to the tender notice issued for running stalls of the petitioners therein, by holding that the claims of the petitioners for renewal of their licences deserve to be considered on their own merits and they are entitled for renewal subject to their satisfying the conditions stipulated in paras 16.1.3 and 16.2.1 of 2010 policy and accordingly allowed the Writ Petitions with the following directions:

- “1. The members of the petitioner-Association shall make applications for renewal of their licences within one month from today.
2. Respondent No.3 shall consider each of such applications with reference to paras 16.1.3 and 16.2.1, as the case may be, and communicate its decision to the members of the petitioner-Association.
3. In the event of rejection of the application of any of the licencees for renewal, respondent No.3 shall

record reasons therefore and communicate the same to the licensee concerned.

4. Till completion of the above mentioned process, the members of the petitioner-Association shall be permitted to continue to run their respective GMUs and SMUs.”

3. Against the said order, the respondents preferred W.A.No.1573 of 2013 and the same was dismissed by a Division Bench of this Court on 12.09.2013. When the matters were carried to the Supreme Court in C.A.Nos.618-620 of 2016, the same were disposed of on 29.01.2016, declining to interfere with the judgment passed by the Division Bench, which confirmed the order of the learned single Judge and the C.As., were accordingly dismissed. While dismissing the C.As., it was made clear that only those licensees, who can declare on affidavit that they do not have the licence of more than one shop or kiosk in their name or *benami* licence at the Railway Station, are eligible for renewal of their licence.

4. The petitioner in W.P.No.21404 of 2016 is having a stall on Platform 2/3 of Kacheguda Railway Station and the licence of the said stall expired by 22.06.2016. The petitioner submitted application for renewal in December, 2015, followed by another application dated 16.05.2016. When the said application was rejected on 17.06.2016 only on the ground that he did not file the application for renewal in advance of six months before the expiry of licence, the above Writ Petition was filed. Admittedly, petitioner is not having any other stall

and as per the judgment of this Court, his application should have been considered. The Supreme Court passed the order only on 29.01.2016 and the stay granted by the Supreme Court was operating till such time. In those circumstances, the petitioner could not have applied for renewal. Even otherwise, petitioner states that earlier he applied in the month of December, 2015 and it was followed by another application on 16.05.2016. In the circumstances, the rejection of the application for renewal is bad and is accordingly set aside. The Writ Petition is allowed. The 2nd respondent is directed to consider the application for renewal without the need for filing an affidavit by the petitioner, as there is no dispute that the petitioner is having only one stall.

5. So far as petitioner in W.P.No.28464 of 2016 is concerned, he is the licence holder of the stall in respect of Thimmapur Railway Station. His licence expired on 01.11.2005. He applied for renewal of licence in April, 2015. After the delivery of the judgment of the Supreme Court, the 2nd respondent addressed letter on 22.04.2016, rejecting the application of the petitioner for renewal on the ground that licence in respect of the stall at Shadnagar Railway Station which was awarded for a period of five years from 10.10.2004 to 30.09.2019 is existing. Now, learned counsel for the petitioner submits that in terms of the judgment of the Supreme Court, petitioner is ready to forego the stall at Shadnagar Railway Station even though there is subsisting licence and his application for renewal in respect of

Thimmapur Railway Station, shall be considered. Since the request of the petitioner is not in contravention of the judgment of the Supreme Court, the impugned order dated 22.04.2016 is set aside and the 2nd respondent is directed to consider the application of the petitioner for renewal of his licence at Thimmapur Railway Station, by duly terminating the contract of stall in Shadnagar Railway Station. The petitioner is willing to file an affidavit, for which purpose, time of two weeks is granted to the petitioner to file an affidavit giving up his claim over the stall at Shadnagar Railway Station and for consideration of renewal of the stall at Thimmapur Railway Station. Learned counsel for the petitioner submits that this direction is in tune with the order passed by Nagpur Bench of the Bombay High Court in W.P.No.5233 of 2013 dated 31.08.2016. In view of the same, the Writ Petition is allowed.

6. So far as W.P.No.35453 of 2016 is concerned, there are five petitioners. Petitioners 1, 2, 4 and 5 are the licence holders of the catering stalls in Nellore, Tenali, Annavaram and Tuni Railway Stations respectively and petitioner No.3 is the licence holder of the stall in Ongole Railway Station. Petitioners state that though they made applications to the 2nd respondent seeking renewal of their licences, no decision was taken on such applications in view of the pendency of the matter before the Supreme Court. It is also their assertion that they are not having any other stall except the stalls in respect of which they applied for renewal of licence. The 2nd

respondent passed order on 17.10.2016 rejecting the request of the petitioners on the ground that they are having more than one stall in their name and also on the ground that they submitted a representation stating that they are having one P.F. stall licence with one main and 3 auxiliary stalls and sought permission to retain one stall. In this case also, learned counsel for the petitioner submits that petitioners want to get their licences renewed in respect of one stall in the above Railway Stations and they do not claim renewal of any other stall. In the circumstances, the impugned order dated 17.10.2016 is set aside and the 2nd respondent is directed to consider the applications of the petitioners for renewal of licence on their filing an affidavit stating that they do not claim renewal of any other stall except the stall where they are seeking renewal. Writ Petition is allowed to the extent indicated above.

Accordingly, all the Writ Petitions are allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed.

No costs.

A. RAMALINGESWARA RAO, J

February 23, 2017
MRR