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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3439/2017 and CM No. 15076/2017**

M/S PRIORITY MEDIA PVT LTD

..... Petitioner

Through: Mr Sameer Nandwani alongwith Mr
Junaidullah, Advocates.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr Ajay Digpaul, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.09.2017

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“that this Hon’ble Court may please be kind enough to issue a Writ of Mandamus in favour of the petitioner and against the respondent thereby directing the respondent to immediately issue approved rates for placing advertisements on two trains i.e. Banglore shatabdi and Dehradun Railway station, Haridwar Railway station, Ahmadabad-Mumbai Double decker train, Jaipur-Delhi double decker trains and to participate/apply for grant of work orders for advertisements for government agencies etc. DAVP/respondent No.2; on the grounds stated in the aforesaid writ petition.”

2. The present writ petition was moved on 24.04.2017, and notice was issued to the respondents. The learned counsel appearing for the respondents on the said date sought time to file the response and four weeks time was granted to do so and, the matter was once again renotified on 21.07.2017 but the petition could not be taken up for hearing due to paucity of time and the matter was adjourned to 22.01.2018.

3. Since, according to the petitioner its contracts with the Indian Railways would be expiring in 2018, the petitioner moved an application for early hearing of the petition on 01.09.2017, and the same was allowed and the matter was fixed for hearing for today. Despite sufficient opportunity, the respondents has not filed any counter affidavit and the averments made in the petition remain uncontroverted. The learned counsel, at this stage, submits that a request for further time was made on 21.07.2017 and the respondents did not file its affidavit because the matter was adjourned to 22.01.2018. This Court finds that said submission wholly unmerited. First of all, the time for filing counter affidavit expired in May 2017 and the statement that any request for further time as made on 21.07.2017, is incorrect. Secondly, the fact that the petition was adjourned to 22.01.2018, on 21.07.2017 for paucity of time did not automatically extend time for filing the counter affidavit; such submission only highlights the lackadaisical attitude that the respondents have come to adopt towards compliance with the time lines and, must be deprecated. Lastly, the petitioner's application for early hearing was allowed on 01.09.2017 in the presence of the counsel for the respondents, and even now, the respondents are not ready with their counter affidavit. In the circumstances, this Court find no reason to defer the hearing to provide further time to the respondents to file a counter affidavit and the petition has been taken up for consideration.

4. The petitioner is a company registered under the Companies Act, 1956 and had entered into agreements with the Indian Railways for display of advertisement spots on various trains and at various railway stations.

5. The petitioner, thereafter, requested respondent no.2 for release of

advertisements rates in order that the petitioner could approach other Government agencies for advertisement on the trains and at railway stations. The learned counsel for the petitioner has drawn the attention of this Court to four applications – one application dated 03.09.2015 and three applications dated 07.09.2016 – whereby the petitioner had applied for the release of the rates. It is the petitioner's grievance that despite the applications and incessant follow up with respondent no. 2, the advertisement rates have not been approved and, the Petitioner has received no written response to the application or the reminders sent to respondent no. 2.

6. The learned counsel appearing for the respondents submits that the rates were not approved by the respondents as there were some criminal cases pending. He has also handed over a letter bearing the date 07.09.2017. (However, the learned counsel states that the said date is a date of printing and in fact the said letter was sent electronically on 07.10.2015), whereby the petitioner was called upon to file certain documents. On a pointed query asked to the learned counsel for the respondents whether any other communication was sent to the petitioner, he has responded in the negative; however, he submits that a meeting was held between the representative of the petitioner and the respondents

7. The learned counsel for the petitioner has drawn the attention of this Court to a communication dated 28.10.2015 indicating that the documents requested from the petitioner were furnished to respondent no.2. The petitioner also produced various reminders.

8. It is apparent from the above that the averments that the respondent no. 2 has despite reminders failed and neglected to approve the rates without any reason, remain uncontroverted. The learned counsel for the petitioner has also brought the relevant file to Court, this file also does not indicate that any letter had been sent to the petitioner rejecting its application or any other reason why the petitioner's request was not acceded to.

9. The learned counsel for the respondents submits that there were serious allegations and cases pending against related concerns. Be that as it may, there is nothing on record which has brought to the notice of this Court which would even remotely suggest this Court that the petitioner's application was rejected or reflects any deliberation to reject the same. More than two years have elapsed since the petitioner's first application and this Court is informed that bulk of the period of term of the petitioner's contracts with the Indian Railways is already over.

10. In the aforesaid circumstances, the petition is allowed and the respondents are directed to process the petitioner's application within a period of one week from today.

11. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

SEPTEMBER 11, 2017
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