

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.28555 to 28557 of 2017

and

WMP.Nos.30695 to 30700 of 2017

and

WP.No.4584 of 2018

and

W.M.P.No.5636 of 2018

S.Sankar ...Petitioner
(in WP.No.28555 of 2017)

D.Udayakumar ...Petitioner
(in WP.No.28556 of 2017)

D.Narasimhan ...Petitioner
(in WP.No.28557 of 2017)

V.Gnanasekaran
Licensee / Book Stall
Pallavaram Railway Station
Chennai-600 063. ... Petitioner
(in WP.No.4584 of 2018)

vs.

The Senior Divisional Commercial Manager /
Divisional Commercial Manager
Chennai Division, Southern Railway
Park Town, Chennai-3. Respondent
(in WP.Nos.28555 to 28557 of 2017)

1. The Chairman
Railway Board
Rail Bhavan, Raisina Road
New Delhi - 110 001.
2. The Executive Director (Tourism & Catering)
Railway Board
Rail Bhavan, Raisina Road,
New Delhi - 110 001.

3. The General Manager
Southern Railway
Head Quarters Office
Park Town,
Chennai-600 003.

4. The Senior Divisional Commercial Manager
Chennai Division
Head Quarters Office
Park Town,
Chennai-600 003.

5. The Divisional Commercial Manager,
Chennai Division
Head Quarters Office
Park Town, Chennai-600 003.

..Respondents
(in WP.No.4584 of 2018)

Writ petition Nos.28555 to 28557 of 2017 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the order of the respondent made in letter No.M/C.41/BS/Policy dated 04.10.2017 to quash the same.

Writ petition No.4584 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents not to evict the petitioner from running his Book Stall in Pallavaram Railway Station, Chennai Division and to grant time to the period of 12 months for paying the full arrears of Rs.5,46,113/- towards pending license fees.

For Petitioner : Mr.L.Chandrakumar
(in WP.Nos.28555 to 28557 of 2017)
Mr.M.Arun
(in WP.No.4584 of 2018)

For Respondents : Mr.P.T.Ramkumar
standing counsel
(in WP.Nos.28555 to 28557 of 2017
and WP.No.4584 of 2018)

COMMON ORDER

Writ Petition Nos.28555 to 28557 of 2017 are filed challenging the order of the respondent dated 04.10.2017, wherein and whereby, the respective writ petitioners were called upon to pay the pending licence fee immediately. Writ Petition No. 4584 of 2018 is filed for mandamus directing the respondents not to evict the petitioner from running his Book Stall in Pallavaram Railway Station, Chennai Division and to grant time to make the payment of arrears in 12 installments.

2. Heard Mr.L.Chandrakumar, learned counsel for the petitioner in WP.Nos.28555 to 28557 of 2017, Mr.M.Arun, learned counsel for the petitioner in WP.No.4584 of 2018 and Mr.P.T.Ramkumar, learned standing counsel appearing for the respondents in WP.Nos.28555 to 28557 of 2017 and 4584 of 2018.

3. All these petitioners are running Book Stalls in the respective Railway Station and they were issued with necessary licence to run such stalls. When the Railway administration sought to revise the licence fee for the book stalls, the petitioners in WP.Nos.28555 to 28557 of 2017 and others have filed writ petitions before this Court in WP.Nos.45095 of 2006 etc., and challenged the said revision. By way of a common order, all the writ petitions were disposed of on 28.10.2008, wherein, this Court found that increase of licence fee is an administrative matter, which has to be decided by the authorities concerned and what is reasonable to the petitioners may not be reasonable to the respondents and therefore, the petitioners therein cannot be heard to say that the increase of licence fee is unreasonable or exorbitant.

4. Paragraph Nos.15 & 16 of the said order reads as follows:

"15. Considering the above facts and circumstances, the irresistible conclusions that could be arrived at are as follows:-

(i) the fixation of enhanced licence fee is within the purview of the respondents, which cannot be decided by this Court under Article 226 of the Constitution of India.

(ii) It is within the jurisdiction of the authorities concerned to decide what is the licence fee that has to be fixed.

(iii) There could be a reasonable classification by the respondents and the same cannot be questioned by the petitioners on the ground of discrimination.

(iv) The book stalls run by the petitioners cannot be equated with the book stalls run by philanthropists and social organisations for the reason that they are not running the book stalls on profit motive and moreover the amounts collected by way of selling those books is utilised for various welfare measures.

16. In fine, the order of the first and second respondents increasing the licence fee payable by the petitioners do not require any interference by this Court. Hence these writ petitions are dismissed. However,

the petitioners being unemployed graduates are running the book stalls for very number of years and their livelihood seems to depend only on the earnings through books stalls in the Railway stations, and hence the authorities viz., the respondents 2 and 3 have to take into consideration the said aspect. It is open to the petitioners to approach the respondents 2 and 3 requesting them to fix a reasonable increase in licence fee. As and when the petitioners approach the respondents, the respondents have to consider the above aspect and pass orders on merits and in accordance with law within a reasonable time. Consequently, the connected M.Ps are closed. No costs."

5. Therefore, it is evident from the above said order that this Court has already rejected the claim of the petitioners against the revision of licence fee. No doubt, Mr.L.Chandra Kumar, learned counsel for the petitioners pointed out that this Court has given liberty to the petitioners to approach the respondents to fix a reasonable increase in licence fee. Based on such observation, the petitioners have sought for reducing the licence fee, which the respondents refused to concede.

6. The learned standing counsel for the respondents - Railway Department, after inviting this Court's attention to the Multi Purpose Stall (MPS) Policy issued in Commercial Circular No.61 of 2017 dated 05.09.2017, submitted that the increase of 12% was made after a long number of years. In any event as this Court has already rejected the very same contention raised by the petitioner in the earlier writ petitions as stated supra, I am not inclined to accept the same objection as raised by these petitioners once again. However, by considering the fact that these petitioners are running their respective Book Stall for long number of years and that they are unemployed persons and in order to meet ends of justice, these writ petitions are disposed of, by passing the following order:

(a) The individual writ petitioners shall pay the arrears as on today in four equal monthly installments commencing from 02.04.2018.

(b) The respondents are entitled to collect licence fee with the increased rate commencing from the month of April 2018.

(c) If the petitioners fail to pay any one of the installments within the time stipulated, it is open to the respondents to

take action for evicting the petitioners from the respective premises.

(d) If the petitioners pay the installments as directed supra, without any default, the respondents Railway Department shall consider their request for the extension of their licence after its expiry in accordance with law.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman
Railway Board
Rail Bhavan, Raisina Road
New Delhi - 110 001.
 2. The Executive Director (Tourism & Catering)
Railway Board
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Head Quarters Office
Park Town,
Chennai-600 003.
 5. The Divisional Commercial Manager,
Chennai Division
Head Quarters Office
Park Town, Chennai-600 003.
- + 1 cc to Mr. Ramkumar, Advocate SR.16186
+ 1 cc to Mr. L. Chandrakumar, Advocate Sr.16168
+ 2 ccs to Mr. L. Chandrakumar, Advocate Sr.16168(27.3.18)
+ 1 cc to Mr.M. Arun, Advocate Sr.16160(13.4.2018)

W.P.Nos.28555 to 28557 of 2017 & 4584 of 2018

MG(CO)

EU(13/04/2018)