

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.38577 to 38581 of 2015
and
M.P.Nos.1,1,1,1 and 1 of 2015
and
W.M.P.Nos.8401 to 8404 of 2018

S.Haribabu

.. Petitioner in
all the W.Ps

Vs

1.The General Manager,
Southern Railway, Park Town,
Chennai - 3.

2.The Senior Divisional Commercial
Manager, Southern Railway,
Trichy Division, Commercial Branch,
Tiruchirappalli.

.. Respondents in
all the W.Ps

Writ petitions filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents herein to consider the representation of the petitioner dated 23.11.2015 and renew the licences for fruit and fruit juice trolley (Trolley Nos.TPJ/T-16, TPJ/T-17) at Villupuram Railway Station, Villupuram, catering and bakery trolley (Trolley Nos.TPJ/T-21 and TPJ/T-19) at Villupuram Railway Station, Villupuram and catering and bakery stall (Stall No.TPJ/S-21) at Villupuram Railway Station, Villupuram respectively.

For Petitioner

.. Mr.AR.L.Sundaresan,
Sr. Counsel
for Ms.AL.Ganthimathi
in all the W.Ps

For Respondents

.. Mr.P.T.Ramkumar
in all the W.Ps

COMMON ORDER

Seeking to modify the order passed by this Court in M.P.Nos.1 to 1 of 2015 in W.P.Nos.38577 to 38579 and 38581 of 2015 on 08.12.2015, W.M.P.Nos.8401 to 8404 of 2018 have been filed. By consent, the writ petitions themselves are taken up for hearing along with these miscellaneous petitions.

2.In W.P.Nos.38577 to 38579 of 2015, the petitioner is given licence to deal with trollies and in W.P.No.38581 of 2015, the subject matter is a stall.

3.In all these writ petitions, the prayer sought for by the petitioner is for a mandamus to consider the representation. This Court granted an interim order by taking note of the earlier order passed by this Court, in which, a challenge was made to the Tender Notification.

4.From the submissions made, it has come to light that the aforesaid writ petition was dismissed as withdrawn. A challenge made by the similar persons who are having more than four stalls was also dismissed in W.P.No.29926 of 2017 and the writ appeal filed was also rejected. Further, the Apex Court in South Central Railways Vs. S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association ((2016) 3 SCC 582) has also stated that subject to permissibility of rule, only those licensees who are having one stall would be allowed to seek renewal.

5.In the case on hand, it appears that the policy of giving licence for trollies has been given a go-by. Even otherwise, the petitioner in two cases has exceeded the original period of licence and renewed them. Therefore, both on merit and in law, the petitioner cannot have any relief insofar as these writ petitions are concerned. Accordingly, W.P.Nos.38577 to 38579 of 2015 are dismissed. However, needless to state that in the event of the respondents effecting a fresh tender, nothing stand in the way of the writ petitioner to participate therein.

6.Insofar as W.P.No.38580 of 2015 is concerned, it is submitted that the trolley in question has already been closed. Therefore, W.P.No.38580 of 2015 is also dismissed.

7.Insofar as W.P.No.38581 of 2015 is concerned, the subject matter is with respect to a stall. Even here, the period of licence and renewal are over. Therefore, as rightly held by this Court and approved by the Division Bench of this Court, there is no vested right available for licensee. Moreover, we do not have any tender notification as of now. The tender invited for the

aforesaid stall has also been discharged. The petitioner has also not challenged the said tender. Thus, this writ petition also deserves to be dismissed. However, the learned senior counsel for the petitioner would submit that till the tender notification is published, the petitioner may be permitted to continue. Learned counsel appearing for the Railways has got some objection.

8.This Court is of the view that atleast some leniency can be shown to the petitioner in W.P.No.38581 of 2015 to continue for a period of one week from the date of tender notification. This order is passed based upon the submission made by the learned senior counsel for the petitioner. It is also passed by taking into consideration the overall interest of three parties viz., the petitioner, the respondents and the general public. The petitioner would do its business, for which, no one else can claim till such time. The respondents would be in a position to receive licence fee till such time. Since the stall is in operation, the general public will also be benefited. Therefore, while dismissing the writ petition in W.P.No.38581 of 2015, the petitioner would be permitted to run the stall for a period of one week from the date of tender notification.

9.With the aforesaid observation, all these writ petitions are dismissed. 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 General Manager,
Southern Railway, Park Town,
Chennai - 3.

2.The Senior Divisional Commercial
Manager, Southern Railway,
Trichy Division, Commercial Branch,
Tiruchirappalli.

+1cc to Mr.AL.GANDHIMATHI, Advocate, S.R.No.23571
+1cc to Mr.P.T.RAMKUMAR, Advocate, S.R.No. 23445

W.P.Nos.38577 to 38581 of 2015

GMI (CO)
TR(12/04/2018)