



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos. 4663, 4319, 5209, 4736, 4685

5199, 4223 & 5259 of 2015 and Connected MPs

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S.E. Manickam ...Petitioner in WP.No.4663 of 2015
P.Ramamoorthy ...Petitioner in WP.No.4319 of 2015
S.Sukumar ...Petitioner in WP.No.5209 of 2015
T.M.Abdulla ...Petitioner in WP.No.4736 of 2015
K.S.Padmavathy ...Petitioner in WP.No.4685 of 2015

13/148 pudunagar JBGHS Road

Tiruppur-1 Licensee:1

Fresh fruit & Fruit Juice Stall

Platform-1

& Catering /bakery Stall Platform-2 at

Tiruppur Railway Station

K.P.Beevathu ...Petitioner in WP.5199 of 2015

K.P.Beevathu ...Petitioner in WP.4223 of 2015

M/s.Loyal World Super Market

Rep by its Managing Partner

P.Moideen No.2902/1 Temple Road

V.V.Mohalla Mysore 570 002 ...Petitioner in WP.No.5259/15

v.

1 The General Manager
Southern Railway
Park Town
Chennai - 600 003

2 The Senior Divisional Commercial Manager
Southern Railway
Salem Division
Salem

3 Divisional Commercial Manager
Salem Division
Southern Railway
Salem

... Respondents in all WPs



Prayer in WP.4663/15:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Bid. No. SA/C79/catg/GMU-Tender dt 2.2.2015 in respect of 1. Snacks and Travel Accessories Stall and 2. Catering and Bakery Stall both at Salem Junction and to quash the same and to direct the respondents to consider the petitioner's representation dated 29.12.2014.

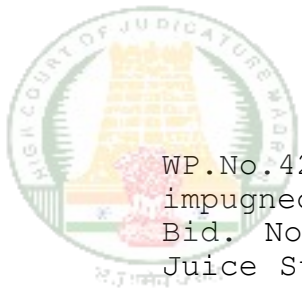
WP.No.4319 of 2015:Writ Petition filed under Article 226 of the constitution of India, Calling for the records pertaining to the impugned order passed by the 3rd respondent dated 2.2.2015 in Bid. No. SA/C79/ catg/GMU-Tender dated 2.2.2015 Fresh Fruit & Fruit Juice Stall in PF No.1/2 Salem Junction and to quash the same and to direct the respondents to consider the petitioner representation dated 27.11.2014

WP.No.5209 of 2015:Calling for the records pertaining to the impugned order passed by the 3rd respondent dated 2.2.2015 in Bid. No.SA/C79/ catg/GMU-Tender dated 2.2.2015 Vegetarian Light Refreshment Stall in PF No.1 at Karur Railway Station and to quash the same and to direct the respondents to consider the petitioner representation dated 18.2.2015

WP.No.4736 of 2015:Calling for the records pertaining to the impugned order passed by the 3rd respondent dated 02.02.2015 in Bid. No. SA/C79/catg/GMU-Tender dated 02.02.2015 in respect of Fresh Fruits & Fruit Juice Stall at Erode Railway Station and to quash the same and to direct the respondents to consider the petitioner representation dated 10.12.2014

WP.No.4685 of 2015:Calling for the records pertaining to the impugned order passed by the 2nd respondent dated 2.2.2015 in Bid No.SA/ C79/catg/GMU/ Tender stalls in 1.Fresh Fruit & Fruit Juice Stall Platform No.1. PGT/32 and 2. Catering/ Bakery Stall Platform No.2 Tirupur Railway Station and to quash the same and to direct the respondents to consider the petitioner representation dated 13.2.2014

WP.No.5199 of 2015:Calling for the records pertaining to the impugned order passed by the 3rd respondent in Bid. No. SA/C79/catg/GMU-Tender dated 02.02.2015 in respect of Catering & Bakery Stall Stall / Trolley No.PGT/6 at Erode Railway Station and to quash the same and to direct the respondents to consider the petitioner representation dated 28.11.2014



WP.No.4223 of 2015:calling for the records pertaining to the impugned order passed by the 2nd respondent dated 2.2.2015 in Bid. No. SA/C79/ catg/GMU- Tender dated 2.2.2015 Fruit & Fresh Juice Stall in PF No.1 at Erode Railway Station and to quash the same and to direct the respondents consider the petitioner representation dated 28.11.2014

WP.No.5259 of 2015:calling for the records pertaining to the impugned order passed by the 3rd respondent in Bid . No. SA/C79/catg/GMU - Tender dt 2.2.2015 situated at Coimbatore Railway Station and to quash the same and to direct the respondents to consider the petitioners representation dt 22.12.2014

For Petitioner : Prof.M.Udaya Bhanu

For Respondents : Mr.P.T.Raamkumar
Standing Counsel

COMMON ORDER

These writ petitions are listed today under the caption "for being mentioned".

2. The writ petitions were disposed of by this court by an order dated 13.04.2018 on the ground that Hon'ble Supreme Court had disposed of the main matter in the case of Senior Divisional Commercial Manager, South Central, Railways and Ors. v. S.C.R.Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association and another [2016 (3) SCC 582]. The operative portion of the order reads as follows:

'34. For the reasons stated supra, this Court cannot interfere with the impugned judgment and order passed in W.A.Nos.1573-75 of 2013 dated 12.09.2013 of the High Court of Andhra Pradesh. The civil appeals are dismissed. The order dated 11.04.2014 granting stay of the impugned order shall stand vacated. We, however, make it clear that only those licensees may be eligible for renewal of their licences 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 stations with periodical reasonable increase of licence fee. All pending applications are disposed of.'

3. The court taking into consideration the subsequent development in the matter, closed the writ petitions and liberty was granted to the petitioners to approach the authorities in terms of the directions issued by the Hon'ble Supreme Court.



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4. After the writ petitions were disposed of, the learned counsel appearing for the petitioners mentioned before this court stating that they require certain clarifications on account of subsequent developments. Accordingly, the matters are listed before this court and heard today.

5. The Senior Divisional Commercial Manager, South Central, Railways has filed an affidavit in all these writ petitions, dated 16.04.2018. Though the affidavit covers 4 other writ petitions, for the present, it would suffice to note the stand taken by the Senior Divisional Commercial Manager in respect of all these writ petitions. From the affidavit it is seen that those licensees/petitioners, who are having more than two licences, have surrendered one and sought for renewal of one stall. In these eight writ petitions, the respondent has taken the following stand in the affidavit dated 16.04.2018. The stand taken in the affidavit is quoted below:-

"A. Writ Petition No.4663 of 2015 - S.E.Manickam

This petitioner was awarded two licences 1) Stall in Platform No.4 at Salem, 2) Stall in Platform No.4 at Salem. Now the petitioner filed an affidavit stating that he already closed down one stall and requested to renew this license for the remaining one stall in Platform No.4 at Salem. Since at present the petitioner has only one stall he is entitled for renewal of license.

B. Writ Petition No.4319 of of 2015 - P.Ramamoorthy

This petitioner was awarded license for one Stall in Platform No.4 at Salem. Now the petitioner filed an affidavit stating that the petitioner is having one stall in Platform No.4 at Salem and requested for renewal of license. Since at present the petitioner has only one stall, he is entitled for renewal of license.

C. Writ Petition No.5209 of of 2015 - S.Sukumar

This petitioner was awarded license for one Stall in Platform No.1 at Karur. Now the petitioner filed an affidavit stating that the petitioner is having one stall in Platform No.1 at Karur and requested for renewal of license. Since at present the petitioner has only one stall, he is entitled for renewal of license.



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D. Writ Petition No.4736 of of 2015 - T.M.Abdulla

This petitioner was awarded license for one Stall in Platform No.2 at Erode. Now the petitioner filed an affidavit stating that the petitioner is having one stall in Platform No.2 at Erode and requested for renewal of license. Since at present the petitioner has only one stall, he is entitled for renewal license.

E. Writ Petition No.4685 of of 2015 - K.S.Padmavathy

This petitioner was awarded two licences for Two Stalls, 1) Platform No.1 at Tirupur and 2) Platform No.2 at Tirupur. Now the petitioner filed an affidavit stating that the petitioner has closed down one stall in Platform No.1 on 14.04.2018 and requested to renew the license for the remaining one stall at Platform No.2, Tirupur. Since at present the petitioner has only one stall she is entitled for renewal of license.

F. Writ Petition Nos. 5199 & 4223 of 2015 - K.P.Beevathu

This petitioner was awarded licences for Two Stalls, 1) Platform No.3/4 at Erode and 2) Fresh Fruit and Fruit Juice Stall at Erode. Now the petitioner filed an affidavit stating that the petitioner has closed down Fresh Fruit and Fruit Juice Stall at Erode on 14.04.2018 and requested to renew the license for the remaining one stall at Platform No.3/4 at Erode. Since at present the petitioner has only one stall she is entitled for renewal of license.

G. Writ Petition Nos. 5259 of 2015 - K.P.Beevathu

This petitioner was awarded licences for Two Stalls, 1) Platform No.1 at Coimbatore and 2) Plot No.1/2 at Coimbatore Now the petitioner filed an affidavit stating that the petitioner has closed down the Stall in Platform No.1 at Coimbatore on 14.04.2018 and requested to renew the license for the remaining one stall at Platform No.1/2 at Coimbatore. Since at present the petitioner has only one stall he is entitled for renewal of license."

6. In the light of the stand taken in the affidavit filed by the Senior Divisional Commercial Manager, in the considered view



of this court, the petitioners need not have any apprehension that they will not be entitled for renewal of one of the stall.

7. The learned counsel for the petitioners does not have any objections for the writ petitions to be disposed of in the light of the stand taken by the Senior Divisional Commercial Manager in the affidavit quoted above. However, the learned counsel for the petitioners submits that the respondents have sealed the stalls without any intimation, as if the petitioners are unauthorized licences.

8. The learned counsel for the respondents-railways would submit that the said contention is incorrect and one of the stall, which were licensed to petitioners are still being continued and they have not sealed the stalls.

9. In these circumstances, I am of the view that since the respondents themselves have agreed to renew the licences for one of the stall, it may not be necessary for this court to go into the controversy whether stalls are sealed earlier or not. This court proposes to issue appropriate proceedings, so that, interest of the licences will be safeguarded. Furthermore, the court took note of the fact that the impugned notification dated 02.02.2015 has been cancelled by the respondents on 14.07.2015.

10. In the light of the above, challenge to the impugned tender notification has become infructuous. Since the notification has been cancelled by order dated 14.07.2017, the respondents are directed to abide by the undertaking given in the affidavit dated 16.04.2018, which has been extracted above and further directed to renew one stall for each of the writ petitioner, as agreed and pending issuance of the renewal of the licences, the business activities of the respective licensees in the said one stall in the Railway Platform as indicated, shall not be interfered. Writ petitions are closed. No costs. Connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rj



To

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

2 The Senior Divisional
Commercial Manager
Southern Railway
Salem Division, Salem.

3 The Divisional Commercial Manager
Salem Division
Southern Railway, Salem.

+2 ccs to Mr.P.T.Ramkumar Advocate sr 27759 & 29039

+8 ccs to Mr.M.Udhaya Bhanu Advocate sr 28984 to 28991/18

W.P.Nos. 4663, 4319, 5209, 4736, 4685
5199, 4223 & 5259 of 2015

rjl(co)
aa26/04/2018