

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.09.2018

CORAM

The Hon'ble Mr.Justice HULUVADI G.RAMESH
AND
The Hon'ble Mr.Justice K.KALYANASUNDARAM

W.A. No.2205 of 2018
and W.M.P.No.17228 of 2018

Fast Track Pvt. Ltd.
Represented by its Manager Marketing
Mr.J.Rajesh
New No.234/236 Arcot road
Kodambakkam, Chennai-600 024. ... Appellant

v.

1.The Divisional Railway Manager
(Commercial)
Southern Railways
Chennai Division
Park Town, Chennai-600 003.

2.Ani Technologies Pvt. Ltd.
By its Director
Regent Insignia
#414, 3rd floor
4th Block, 17th main 100 feet road
Koramangala
Bangalore-560 034. .. Respondents

Appeal filed under Clause 15 of Letters Patent to set aside the order dated 18.09.2018 made in W.P.No.30001 of 2017.

Prayer in WP.No.30001 of 2017:Petition filed under Article 226 of the constitution of India praying this Hon'ble Court to issue a writ of certiorarified mandamus calling for the records on the file of the 1st respondent in tender Notification No.M/C.300/Call Taxi stand/Tenders/09/2017 of 02.08.2017 for parking and operation of call taxi stand at Moore Market complex/Chennai Central and the consequential letter dated 26.10.2017 in No.M/C.300/Call Taxi/MMC/MAS for submission of documents before taking up of the contract issued by the first respondent to the second respondent and quash the same and direct the 1st respondent to call for fresh tender for parking and operation of call taxi stand at Moore Market complex/Chennai Central.

For Appellant : Mr.Vijay Narayan
Senior Counsel for Mr.A.Selvendran
For R1 : Mr.P.T.Ramkumar
(Standing Counsel for Railways)
For R2 : Mr.AR.L.Sundaresan Senior Counsel
for M/s.BFS Legal

JUDGMENT

(Judgment of this Court was delivered by HULUVADI G.RAMESH, J.)

Heard Mr.Vijay Narayan, the learned Senior Counsel for the appellant as well as Mr.P.T.Ramkumar, the learned Standing Counsel appearing for the first respondent and Mr.AR.L.Sundaresan, learned Senior Counsel for the second respondent and perused the materials available on record.

2. The Writ Appeal is directed against the order dated 18.09.2018 made in W.P.No.30001 of 2017 by the learned Single Judge. The Writ Petition came to be filed challenging the tender notification issued by the first respondent dated 02.08.2017 and for a consequential direction to the first respondent to call for fresh tender for parking and operation of call taxi stand at Moore market complex, Chennai Central.

3. The learned Senior Counsel for the appellant submitted that the first respondent issued the impugned tender notification fixing the reserve price at Rs.2,17,89,945/- for a period of one year for operating the call taxi stand at Central Railway Station. The appellant quoted a sum of Rs.60,00,000/-, whereas the amount quoted by the second respondent was Rs.60,00,780/- and when the offer of both of them were not near the reserve price, the first respondent instead of calling for both the parties to the negotiation table, granted license to the second respondent enhancing the fee to Rs.70,00,000/-.

4. The learned Standing Counsel for the first respondent would argue that if the offer is less than the reserve price, as per the circular, they can issue licence for a lesser period to enable the railway to bring it for re-auction. According to the learned Standing Counsel for the first respondent, due to the pendency of the writ petition filed by the appellant and Bharathi Cabs Private Limited, the Southern Railways could not take immediate steps to issue fresh tender notification and only after taking a decision by a Committee, a fresh notification can be issued, which will take minimum period of 90 days.

5. The learned Standing Counsel for the second respondent would state that the Writ Court after taking into consideration of the necessity to operate call taxi to benefit the general

public and also to protect the interest of the Railways issued comprehensive directions, which do not call for interference of this Court.

6. It is seen that pursuant to the impugned tender notification, the appellant, second respondent and Uber taxi have participated in the tender process and the documents produced by the appellant and Uber taxi were rejected on the ground that they did not furnish the required documents. The offer of Rs.60,00,780/- of the second respondent was taken up for consideration and later it was increased to Rs.70,00,000/-.

7. The learned Single Judge in para-16 of his order noticed that Bharathi Cabs Private Limited did not participate in the tender process and the appellant has participated in the tender, but not selected on the ground of ineligibility. It is brought to the notice of this Court that none of the call taxis are operating near the Central Railway Station, wherein large number of general public are moving day-in and day-out. The service of call taxi is of paramount importance and the passengers, who all are arriving in Chennai Central Station are suffering and longing to avail better services from the Cab operators.

8. The learned Single Judge, taking note of the facts stated above has issued the following directions:

"(1) The relief as such sought for in the writ petitions stand rejected.

(2) The 2nd respondent/Ani Technologies Private Limited is permitted to operate the Cab services for a period of six months from 24.09.2018 to 23.03.2019.

(3) The 1st respondent/Southern Railways is directed not to give any further extension to the 2nd respondent/Ani Technologies Private Limited to continue the operation beyond 23.03.2019.

(4) The 1st respondent/Southern Railways is directed to issue the modified proceedings, fixing the license fee of Rs.40,00,000/- for a period of six months to be paid by the 2nd respondent/Ani Technologies Private Limited.

(5) The 2nd respondent/Ani Technologies Private Limited is directed to pay the enhanced license fee of Rs.40,00,000/- within a period of two weeks from the date of receipt of a copy of this order.

(6) The 1st respondent/Southern Railway is directed to call for a fresh tender by taking all necessary steps and accordingly, proceed with the fresh Tender Notification by providing an opportunity to all the eligible persons including the petitioners in both the writ petitions.

(7) The 1st respondent/Southern Railways is directed to finalize the tender before the expiry of the six months period i.e., 23.03.2019, enabling the new successful tenderer to continue the operations without any break."

9. The grievance of the appellant is that when they are technically qualified and the margin of the appellant and the second respondent was a meagre sum of Rs.780/-, the appellant was not called for negotiation for enhancement of the license fee. The counter filed by the first respondent shows that the appellant was not technically qualified since they failed to submit the required documents and hence, we do not find any force in the submission of the learned Senior Counsel for the appellant.

10. The learned Senior Counsel for the appellant submitted that the appellant is ready to offer Rs.1 Crore as license fee for one year. Considering the fact that the reserve price was fixed at Rs.2,17,89,945/- and the appellant has now offered Rs.1 Crore for one year and in the interest of justice, we are inclined to enhance the fee to Rs.50,00,000/- for a period of six months. It is needless to say that the appellant as well as Bharathi Cabs Private Limited are entitled to participate in the ensuing tender notification.

11. Accordingly, the order of the learned Single Judge is modified subject to deposit of Rs.50,00,000/- (Rupees Fifty Lakhs only) by the second respondent within a period of three days i.e. on or before 27.09.2018 or immediately within 3 days from the date of the receipt of this order and they can start the operation of call taxi by 25.09.2018 for a period of six months only.

12. With the above modification, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/--

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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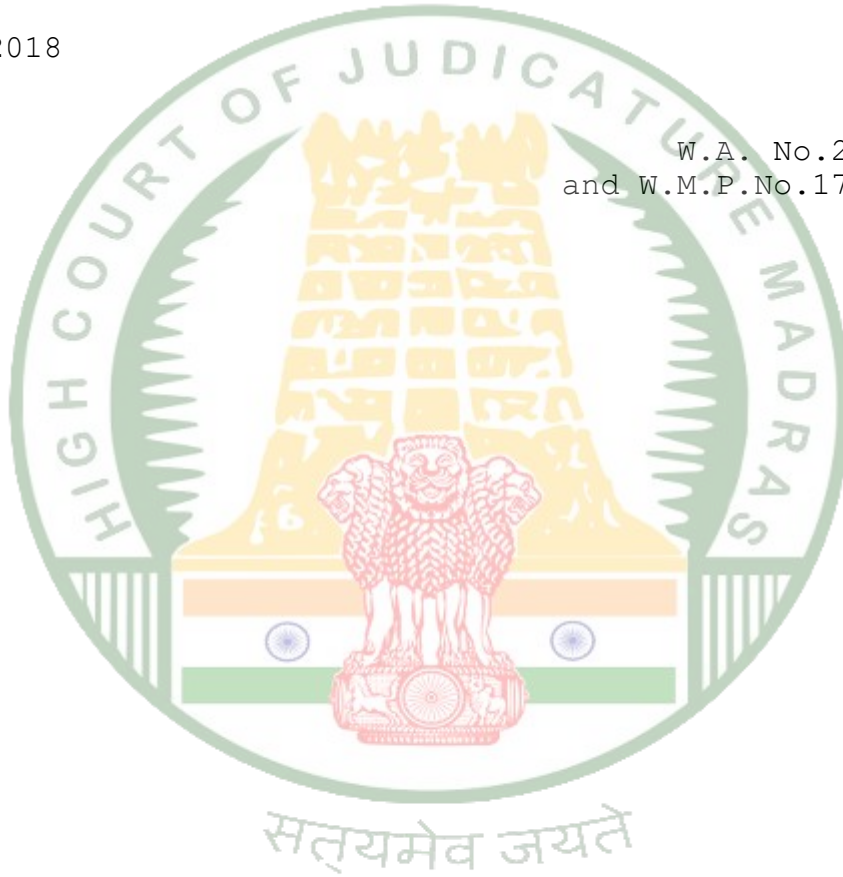
To

The Divisional Railway Manager
(Commercial)
Southern Railways
Chennai Division
Park Town, Chennai-600 003.

+lcc to Mr.A.Selvendran, Advocate SR.NO.66328

SV(CO)
sm:26.10.2018

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