

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: January 04, 2018
Judgment delivered on: January 29, 2018

+ W.P.(C) 5746/2016, CM No. 23688/2016

NORTHERN RAILWAYS OUT AGENCY (NOIDA) Petitioner

Through: Mr. V.K. Shukla, Adv. with
Ms. Nupur Shukla, Adv.

versus

DIVISIONAL RAILWAY MANAGER NORTHERN RAILWAY
AND ANR. Respondents

Through: Ms. Pinky Anand, ASG with Mr. Jagjit
Singh (Senior Standing Counsel), Ms.
Snidha Mehra & Ms. Kirti Dua, Advs.

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition has been filed by the petitioner with the following prayers:

"It is therefore most respectfully prayed as this Hon'ble Court may graciously be pleased to:

- a) *Issue a writ of certiorari or any other writ or direction quashing the order dated 03.06.2016 numbered as **SCD-134-93-Pt-93-Noda-2016** passed by respondent No.1.*
- b) *Issue a writ of mandamus or any other writ, order or direction directing the respondents to renew the parcel booking agency of the petitioner named as Northern Railway Out Agency, Noida for a period of 5 years.*

c) *Pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of this case."*

2. The facts as noted from the writ petition are, the petitioner which is a proprietorship concern, was awarded Parcel Booking Out Agency by the respondent no. 2 for NOIDA in the year 1992. It is the petitioner's case that it established the agency with necessary infrastructure of building, staff etc. The respondents executed an agreement with the petitioner and the agency of the petitioner was renewed from time to time as per the Railway Manual Code till May 31, 2015. Before the renewal expired on May 31, 2015, petitioner moved an application for renewal of its agency. As the renewal of the agency was not granted, the term expired on May 31, 2015. The petitioner filed a Civil Writ petition no. 6421/2015 on July 1, 2015 in this court against non-renewal of its agency by the respondents. It is averred that when the petition was listed for hearing before this court on July 7, 2015, respondents informed the court, since the Parcel Management System has not been installed by the petitioner at its out agency, the agency was not renewed. Upon the petitioner agreeing to install, Parcel Management System at its own cost, it was agreed by the counsel for the respondents, on filing a fresh application for renewal, the petitioner shall be granted renewal in accordance with the regulations. It was also made clear by the court that if the PMS is not installed within the stipulated period, it shall be open to the respondents to cancel the Contract.

The petition was accordingly disposed of.

3. It is averred that an application was filed by the petitioner in the aforesaid writ petition informing the Court that though the petitioner has installed a Parcel Management System, but the same could not be made functional due to non-availability of component known as “Thin Client”. It was represented on behalf of the respondents that the component can be bought from CRIS at Chanakya Puri. On that submission, learned counsel for the petitioner stated that he would purchase the same within a period of two days. The court directed the inspection of the system by the officials of the respondents. It is averred that on October 5, 2015, a letter was issued by the Railways that after installation of Parcel Management System by the petitioner they can book the consignment through the Parcel Management System for a period of two months. It is also averred that the said letter also mentions that renewal shall be granted to the petitioner agency during that period. It is averred that this aspect was noted by the Court in the hearing dated October 7, 2015 in W.P.(C) No. 6421/2015 and the application was disposed of. On November 26, 2015, a show cause notice was issued to the petitioner by the respondents mentioning therein that certain irregularities have been committed by the petitioner agency and the petitioner agency was cautioned to be vigilant in future. It is averred that on December 8, 2015,

respondents informed the petitioner that it can continue functioning of booking of consignment till further orders. On February 29, 2016, petitioner agency was issued another show-cause notice mentioning therein that when a parcel was booked by them at 7.15 PM at NOIDA, how its entry was found within 7 minutes at New Delhi Railway Station, i.e., at 7.24 PM. On April 04, 2016, petitioner replied to the aforesaid show cause notice and mentioned therein that after installation of Parcel Management System a message is flashed on the mobile of the person booking the consignment and since the consignor wanted to book his material by Prayag Raj Express to Allahabad, therefore, he must have requested the parcel clerk of New Delhi Railway Station to make an entry on the basis of the SMS received by him so that his goods can be loaded in Prayag Raj Express scheduled to leave at 9.30 PM.

4. It is the case of the petitioner that the booked consignment had reached the New Delhi Railway Station at 8 PM and loaded in the train. It is the case of the petitioner that in reply to the show cause notice, it was stated that even though the petitioner was not at fault, he may be forgiven. It is averred that as the petitioner, was operating the agency on ad hoc basis, he sent another representation requesting the respondents to renew its agency.

5. It is averred that on June 3, 2016, respondents issued a letter declining to renew the agency of the petitioner and the same was terminated with

immediate effect. The ground for declining the renewal and the termination of the agency was that the petitioner has committed serious lapses in its working as mentioned in the show cause notices dated November 26, 2015 and February 29, 2016. It is this communication dated June 03, 2016, which is under challenge in the present petition.

6. The respondents have filed a reply to the writ petition wherein a preliminary submission has been made, that the petitioner, i.e., Northern Railway Out Agency was allotted in the name of Mr. Kamal Kumar Bough. It is also stated that the agreement was renewed from time to time as per the report of CMI/MKT on approval of the competent authority. The last renewal of the contract was from March 1, 2015 to May 31, 2015 on the same terms and conditions on account of Railway Board directions making mandatory to install PMS within that period otherwise, further renewal of contract agreement will not be considered at all. Accordingly, the agreement was extended by the competent authority till June 30, 2015, for one month more, on the same account. It is also averred that show cause notice was issued by the respondent no.1 vide letter dated April 6, 2015 pursuant to a sudden inspection carried out by the Railway Authorities at out agency of the petitioner during which many irregularities were found pertaining to the disposal of the consignment at the agency. It is also averred that instructions

were issued regarding installation of the PMS. Reply to the show cause notice dated April 6, 2015 was found to be unsatisfactory since it was found that petitioner had failed to comply with the respondents instructions regarding installation of PMS and also displayed a serious negligence and misconduct tantamount to breach of contract agreement and having unsatisfactory services, the out agency of the petitioner was terminated on June 29, 2015. Respondents referred to the filing of the writ petition W.P.(C) 6421/2015 by Kamal Kumar Baugh, the reference to which has already made above. The respondents referred to the direction of this Court that if petitioner fails to install PMS within the stipulated period, it shall be open to the respondent to immediately cancel the contract. It is stated, when the petitioner failed to install the PMS as per direction of this Court, a letter dated July 20, 2015 and reminder dated August 4, 2015 were sent to the petitioner for installation PMS. It is also stated that in compliance of orders of this Court, the petitioner was allowed to book parcel for two months with effect from October 6, 2015 to December 5, 2015. The respondents referred to a show cause notice issued to the petitioner on November 26, 2015 regarding fraud committed by the out Agency. It is averred, the petitioner had admitted that it used to send packages of lower weights in separate loads at interval of few hours and to keep on hold the booked packages of lower weights for couple of hours. That another show cause notice was issued on February 29,

2016. The reply given by the petitioner was found to be unsatisfactory, since the petitioner has not been able to explain how the parcel booked at his agency which is located in NOIDA reached New Delhi Station in 7 minutes. This tantamounts to fraud. It is their case that the termination was effected in terms of Clause 18 (b)(1) and Para 1706 of Indian Railway Code for Traffic (Commercial) vide letter dated June 3, 2016 after taking due cognizance of all the relevant facts and representations. It is averred that as per the policy no contract should be awarded for indefinite period. The agreement which the petitioner signed was in the year 1992, which came to an end in the year 2015, therefore, the petitioner's agency continued for almost 24 years continuously.

7. A rejoinder has been filed by the petitioner. Respondents have also filed additional affidavits wherein it has been stated that in terms of circular no. 5/2016 dated May 10, 2016, the competent authority has approved the closure of all city booking out agencies of Delhi Division. By the aforesaid circular, all the 7 out agencies were directed to be closed w.e.f July 1, 2015. They also state that communication in this regard dated June 10, 2016 was also sent to the petitioner vide letter dated June 14, 2016. The respondents in their second additional affidavit, referred to, existence of an Arbitration Clause in the agreement and, as such writ petition is not maintainable.

8. Mr. V.N. Shukla, learned counsel appearing for the petitioner apart from reiterating the contents of the writ petition would submit that the petitioner has been running the out agency with dedication and integrity since 1992, i.e., for the last 24 years and he has earned goodwill for his agency. The said out agency is not only authorized to make booking of parcels and consignments for Railways, but it was also authorized to sell the unreserved railway tickets to the general public and due to the closure of the agency, public at large is suffering as they are unable to buy passenger railway tickets at NOIDA. The petitioner agency has employed around 10 skilled and 30-40 unskilled employees as staff and all these persons have become unemployed. He stated, the impugned action is malafide one inasmuch as in the earlier round of litigation, the only stand of the respondents was that the petitioner has not installed the Parcel Management System and when the termination was challenged in this court during the pendency of the writ petition, the PMS having been installed, this Court had directed the respondents to renew the contract of the petitioner for which the respondents had given an undertaking. According to him, the plea of wrong doing is only a ploy to get rid of the petitioner. Mr. Shukla reiterates his submission that the petitioner is not fault inasmuch as the Parcel Management System is a direct online link with CRIS and there is no scope for the petitioner manipulating any entry at the New Delhi Railway Station. According to him, as the entry of the consignment is

transmitted immediately through PMS to the person booking the consignment, the consignor must have requested the parcel clerk at the Railway Station to make entry of booking so that his consignment is loaded immediately on arrival from NOIDA. In the end it is his submission, the denial to renew the out agency is in violation of Article 19 (1)(g) of the Constitution effecting the livelihood of not only the petitioner but all the employees engaged by the petitioner. He relied on the judgment of the Supreme Court in the case of ***Sr. Divisional Commercial Manager and Ors. v. SLR Caterers, Dry Fruits, Fruit Juice, Stalls Welfare Association and Ors.*** 2016 3 SCC 582 in support of his contention.

9. On the other hand, Ms. Pinki Anand, learned Addl. Solicitor General would justify the impugned action by pointing out Para 3 of the additional affidavit filed on July 14, 2017 wherein it has been stated that as on date there is no contract of City Booking Agencies / Out Agencies in operation in Delhi Division. In other words, no agreement of the Out Agencies in the City Division has been renewed. It is her submission that the Out Agency was awarded to the petitioner in the year 1992 and for 24 years, petitioner continued to operate the Out Agency on the basis of renewal given time to time with the approval of the competent authority. She stated, vide the impugned letter, the out agency of the petitioner has not been renewed / stood

terminated. She also draws my attention to a letter dated September 20, 2017 of the Vigilance department, which went into the working of the Parcel office at New Delhi, Delhi and Hazrat Nizamuddin stations including the irregularities and suggested the improving of the system, by appointing new agencies through the process of tender. She submitted, as and when the tender is issued, the petitioner can also apply against the same. It was her endeavour to submit that the agreement with the petitioner for the out agency could not have been continued in perpetuity as the same would have been arbitrary. She stated, calling of tender would ensure fairness and transparency as every person eligible would have equal opportunity to bid for an out Agency. She would rely upon the two judgments of this court in the case of *M/s. Goel and Goel and ors. v. Union of India, W.P.(C) 5751/2015* decided on September 7, 2016 and *M/s. Deepak and Co. v. Union of India and Ors. W.P.(C) 3188/2016* and connected petitions decided on September 20, 2016 in support of her contention, justifying the impugned action.

10. Without prejudice, it was her submission that in terms of clause 18 (b)(1), the respondents are within their rights for certain good valid reasons to terminate the agreement. She stated, it is amply demonstrated in the pleadings of the respondents that the petitioner was involved in certain activities which apart from being detrimental to the interest of Railway

Administration were also unsatisfactory. The respondents have rightly not renewed the agreement. In the end, it is her submission that the present writ petition is not maintainable as the agreement executed with the petitioner consists of an arbitration clause, which admittedly has not been invoked by the petitioner herein.

11. Having heard the learned counsel for the parties, the issue which arises for consideration is whether the impugned order dated June 3, 2016 issued by the respondents not renewing the agreement of out agency of the petitioner at NOIDA is justified. Before I answer, this issue it is necessary to deal with the submission of Ms. Anand, Ld. ASG that the remedy for the petitioner is to invoke Arbitration Clause as exist in the Agreement. I am of the view, as the respondents, having filed their statement on the dispute, by way of a reply, to the writ petition are now precluded from contending so, as by their own conduct, have given up the clause. In this regard, I would like to refer to the judgment of this Court in the case of ***S.D. Buildwell Pvt. Ltd. v. Rail Land Development Authority W.P.(C) No. 3332/2012 decided on May 18, 2015 MANU/DE/1568/2015***, wherein this Court in para 52 has held as under:-

“52. On the issue raised by the respondent that there was an Arbitration Clause, therefore, the petitioner should approach the Arbitration Tribunal. It is relevant to note

that as per Section 8 of the Arbitration and Conciliation Act, 1966, an application should be filed before the party files its first statement on the substance of the dispute. However, the respondent had filed its counter-affidavit on 08.08.2012 whereas the application under Section 8 of the Act was filed on 07.09.2012. Therefore, since the respondent chose to file its application after filing of its first counter-affidavit, the said application is not maintainable.”

12. Further, the Supreme Court in the case of ***Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd. and Ors. Civil Appeal No. 5440/2002*** decided on April 15, 2011 MANU/SC/0533/2011 AIR 2011 SC 2507, in para 17, has held as under:-

“17. Not only filing of the written statement in a suit, but filing of any statement, application, affidavit filed by a Defendant prior to the filing of the writ statement will be construed as ‘submission of a statement on the substance of the dispute’, if by filing such statement/application/affidavit, the Defendant shows his intention to submit himself to the jurisdiction of the court and waive his right to seek reference to arbitration. But filing of a reply by a Defendant, to an application for temporary injunction/attachment before judgment/appointment of Receiver, cannot be considered as submission of a statement on the substance of the dispute, as that is done to avoid an interim order being made against him.”

13. So, I reject this plea of Ms.Anand. Insofar as merits are concerned, there is no dispute that initial agreement was executed between the parties on January 24, 1992. It is also conceded position that the agreement was renewed from time to time till May 31, 2015 for almost 24 years. The parties

were in litigation in an earlier petition being W.P.(C) 6421/2015, but that was for non-renewal of the agreement on the ground that the petitioner had not installed the Parcel Management System. The said writ petition was disposed of as the petitioner had installed the PMS. Thereafter, the agreement was renewed. It so happened that petitioner was issued two show-cause notices, i.e., November 26, 2015 and February 29, 2016 for certain irregularities in the operation of the Parcel Management System. The said show-cause notices were replied to by the petitioner. It is seen, the allegations in the show cause notices against the petitioner have been admitted by the petitioner as is clear from the reply of the petitioner dated April 11, 2016:-

“Sir, all over India our agency is the first agency which is working through PMS and our PMS was installed in the month of October and we had no knowledge about PMS. You have mention PRR No. 2001303672 and 2001303675 that consignment was booked for 14 packages Allahabad or 12 packages NED and our agency had sent them at 07:15P.M. to New Delhi. Your contention is that how this consignment was entered in summary of New Delhi railway station.

Sir, please note that immediately after generation PRR No. gets flashed on the mobile of party. Our assumption is that for getting his consignment loaded on the same day the party must have managed entry at station so that the number may come in summary immediately and this consignment was loaded on the same day. We did not have any knowledge of PMS and we were not even aware that message gets transmitted to a party. You can check any record after 27.10.2015 you will not find such thing. I had also inquired from our tempo driver as to when he had reached New Delhi railway station on 27.10.2015 and he had told that normally it takes 1-1.5 hrs but on that day being Balmiki

Jayanti he had reached at New Delhi railway station at about 08.00P.M.

It is respectfully prayed that whatever happened had happened due to non knowledge of PMS therefore we may be forgive and in future your will not find any such complaint.

Thanking you,”

14. The reply filed does indicate misdemeanor on the part of the petitioner. Otherwise, there was no reason to seek pardon, if there was none. Further Clause 18(b)(1) contemplates a termination of Contract in the eventuality of unsatisfactory work. Even otherwise, it is the case of the respondents that the petitioner has not been singled out. All the out agencies have been similarly treated inasmuch as the agreements with those out agencies have not been renewed or have been terminated w.e.f July 01, 2015. The reason for not renewing the agreements is, in view of the irregularities highlighted by the vigilance department, including recommendation to appoint agencies through tenders. Such a decision cannot be faulted. Moreover, it is noted that for the last 24 years, the petitioner has been operating the out agency on the strength of renewal of the agreement, which, according to this court appears to be unusual, more so, when one of the parties is a public body, which is expected to be fair/transparent in its dealings. Further para 1706 of the India Railway Code for traffic (Commercial) stipulates, a Contract should not be awarded for an indefinite period but should be limited to 3 to 5 years with a clause for termination in the event of unsatisfactory service subject to renewal clause.

The clause limits the contractual period for 3 to 5 years. Such a clause, cannot be read to mean that, the renewal should be for an indefinite period denying the benefit of our Agency to other eligible persons/concerns creating a monopoly in favour of few like the petitioner. The submission of Ms. Anand that the process of tendering has been evolved to make contracts more fair and transparent is appealing. No fault can be found with such a decision. Surely, it is not a case which violates Article 14 of the Constitution of India. In so far as the reliance placed by Mr. Shukla on the Judgment of the Supreme Court in the case of *Sr. Divisional Commercial Manager and Ors. (supra)* is concerned, the same is distinguishable inasmuch as the facts in the said case are, the Members of the South Central Railway Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association, (hereinafter referred to as “the Welfare Association”) were granted licenses for running General Minor Units or Special Minor Units in Categories “A”, “B” and “C” Railway Stations. These licenses were granted in favour of the members of the Welfare Association prior to the creation of the Indian Railways Catering and Tourism Corporation Limited (hereinafter referred to as “IRCTC”) under the Catering Policy, 2005. In terms of the said Policy, the contracts under Categories “A”, “B” and “C” Railway Stations were transferred to the IRCTC while the contracts granted under Categories “D” to “F” Railway Stations were continued under the control of the South Central Railways till

the IRCTC was equipped to take over these units. The contracts held by the members of the Welfare Association were renewed during the subsistence of the Catering Policy, 2005. The said policy was replaced by the Catering Policy, 2010. Under the new Policy, the contracts of all the existing major and minor catering units were to be awarded and managed by the Zonal Railways. The IRCTC was left with the running of the Food Plaza, Food Courts and Fast Food Units only. Pursuant to the Catering Policy, 2010, the South Central Railway granted renewal of licenses in favour of the licensees for a period of three years with effect from 21.07.2010, the date on which the Catering Policy, 2010 was made effective in respect of the General Minor Units (GMUs) and Special Minor Units (SMUs) taken over from the IRCTC, subject to the conditions stipulated in paras 16.1.3 and 16.2.1 of the Catering Policy, 2010. The renewed licenses were to expire on 20.07.2013. On 26.04.2013, the Senior Divisional Commercial Manager, Vijayawada, issued a bid notice inviting sealed bids on the Single Stage Two-Packet System from food and catering service providers for provision of catering services at the various GMUs of Categories “A” and “B” Railways Stations in the Vijayawada Division. A similar notification dated 03.05.2013 was issued for establishment of catering stalls/fruits and fruit juice stalls in SMUs in “A1”, “A” and “B” Category Railway Stations. Aggrieved, the Association, the members of which had existing licenses, filed a Writ Petition before the

single Judge of the High Court at Hyderabad. The Association urged that the said action of inviting fresh bids is discriminatory and also contrary to the provisions of the Catering Policy, 2010. The main plea of the Association was that in terms of the Catering Policy, 2010, the existing licensees were entitled for renewal of their licenses for a period of three years, subject to their satisfactory performance, payment of all dues and arrears and withdrawal of court cases, if any. They prayed that the appellant be directed to renew the licenses of the existing license holders of the canteens and fruits and fruit juice stalls. Vide judgment and order dated 16.08.2013, the learned single Judge came to the conclusion that the Catering Policy, 2010 did not differentiate among the licensees based on the number of years for which they have been carrying on their business. It was further held that under the Catering Policy, 2010, the license fee is liable to be revised based on the potentiality of each Railway Station and the turnover of the licensees during the previous years. Since the license fee is subject to continuous revision and does not remain stagnant, the question of the Railways suffering any loss due to renewals would not arise. The learned single Judge held that the members of the Welfare Association are entitled for renewal of the licenses of the members subject to their satisfying the conditions stipulated in paras 16.1.3 and 16.2.1 of the Catering Policy, 2010. On appeal filed by the appellants, the judgment and order of the learned single Judge was upheld by the Division

Bench of the High Court in the Writ Appeals vide its judgment and order dated 12.09.2013.

15. The Supreme Court has dismissed the appeal filed by the Railways and upheld the judgment of the learned Single Judge of the High Court and also the Division Bench. The High Court had primarily relied upon the catering policy of 2010 which inter alia stipulated the existing licensees were entitled for renewal of their licenses for a period of 3 years subject to the satisfactory performance, payment of all dues, arrears and withdrawal of court case, if any. It is such a policy, which was interpreted by the High Court in favour of the licensees. The Supreme Court has read into the provisions, the right to life which is guaranteed under Article 21 of the Constitution of India. The Supreme Court dismissed the SLP by relying upon the constitutional provisions of Articles 14, 21 and 38. The Supreme Court in Para 20 has referred to the policy dated August 9, 2010 which reads as under:

“20. We are unable to agree with the contention advanced on behalf of the Appellants. The Railway Board issued Commercial Circular No. 37 dated 09.08.2010, which contained the following instructions:

“1. Transfer of License Units:

d. Zonal railways should renew all agreements which have expired or are due for expiry in the next 6 months by giving an extension, subject to a maximum extension of six months from the date of issue of Catering Policy, 2010.”

This circular clarifies that the renewal of the license is required to be granted to all the existing licensees of the Minor Units as per clauses 16 and 17 of the Catering Policy, 2010. It also becomes clear that the existing licensees need not be included in the tender process. Circular dated 23.08.2011 issued by the Chief Commercial Manager of South Central Railway directed all the Divisional Commercial Managers and other subordinate officers of the South Central Railway to confirm that the tenure of all GMUs and SMUs at "A1", "A" and "B" category stations shall be renewed after every 3 years on their satisfactory performance and payment of all dues and arrears as per the 2010 Policy. In view of the said circular, catering licenses of all the members of the respondent Association were renewed till July 2013."

16. No such policy has been relied upon by Mr. Shukla which would make the judgment applicable in the case in hand. Rather Ms. Anand is justified in relying upon the judgment of this Court in the case of ***M/s. Goel & Goel and Ors. (supra)***, wherein the Coordinate Bench of this Court in Paras 5 and 6 has held as under:

"5. Since admittedly in the present case the contract between the parties has expired, there is no pre-existing legal right in favour of the petitioner to file a writ petition to seek renewal of the contract and that too only on the basis that the contract contains a provision for renewal. This Court is of the view that it would not be justified in issuing a direction for re-writing the W.P.(C) 5751/2015 Page 3 of 3 contract and for enforcement of a non-existing contract; non-existing in the sense that the contract between had already come to an end by efflux of time.

6. Moreover, the Supreme Court in Union of India and Others vs. M.K. Sarkar, (2010) 2 SCC 59, has held as under:-

"26. A claim on the basis of guarantee of equality, by reference to someone similarly placed, is permissible only when the person similarly placed has been lawfully

granted a relief and the person claiming relief is also lawfully entitled for the same. On the other hand, where a benefit was illegally or irregularly extended to someone else, a person who is not extended a similar illegal benefit cannot approach a court for extension of a similar illegal benefit. If such a request is accepted, it would amount to perpetuating the irregularity. When a person is refused a benefit to which he is not entitled, he cannot approach the court and claim that benefit on the ground that someone else has been illegally extended such benefit. If he wants, he can challenge the benefit illegally granted to others. The fact that someone who may not be entitled to the relief has been given relief illegally, is not a ground to grant relief to a person who is not entitled to the relief."

(emphasis supplied)"

17. She is also justified in relying upon the judgment of this Court in the case of ***M/s Deepak & Co. (supra)*** wherein the Coordinate Bench of this Court in Paras 10, 11 and 12, has held as under:

"10. It is settled law that where a benefit has been illegally or irregularly extended to someone else, a person who is not extended a similar illegal benefit cannot approach the Court for extension of a similar illegal benefit.

11. The Supreme Court of India in Union of India vs. M.K. Sarkar; (2010) 2 SCC 59 has held that if such a request is accepted, it would amount to perpetuating the irregularity. It was further held that when a person is refused a benefit to which he is not entitled, he cannot approach the Court and claim that benefit on the ground that someone else has been illegally extended such benefit.

12. This Court is further of the view that the circulars do not confer any right of extension, as has been sought to be urged by learned counsel for the petitioners, as the contracts of the petitioners have already expired by efflux of time."

18. In view of my above discussion, I do not see any merit in the petition, the petition is dismissed.

CM No. 23688/2016 (for stay)

In view of the order passed in the writ petition, the application is dismissed as infructuous.

JANUARY 29, 2018/jg **V. KAMESWAR RAO, J**

