

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. No.15142 of 2019

and

W.M.P. Nos.15124, 15126 to 15128 of 2019

M/s. Aviation Express
Rep. by its Proprietor,
Mr.V.Krishnamurthy
New No.66, Old No.142, Eldams Road,
Teynampet, Chennai - 600 018. Petitioner

-vs-

1. The Chairman,
Airports Authority of India,
Rajiv Gandhi Bhavan,
Safdarjung Airport Area,
New Delhi - 110 003.
2. The Airport Director,
Airports Authority of India,
Chennai International Airport,
Meenambakkam,
Chennai - 600 027. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in the impugned communication bearing Ref. No.AAM/C.2367/2019/1056 dated 22.05.2019, and set aside the same as being untenable in law, arbitrary and illegal, and consequently directing the 2nd Respondent to extend the Petitioner's license granted pursuant to the License Agreement dated 16.04.2007 until regularisation of the subject license or finalisation of fresh tenders in relation to operation of City Coach Services (maxi-cab) at the Chennai International Airport.

For Petitioner : Mr.A.R.L.Sundaresan,
Senior Counsel
for Mr.R.Parthasarathy

For Respondent : Mr.Father Xavier Arulraj,
Senior Counsel for
Mrs.A.Arulmary

O R D E R

The Petitioner had been operating City Coach Services (maxi-cab) at the domestic and international terminals at Chennai International Airport. There had been earlier litigation between the parties regarding the continuance of license and by order dated 26.08.2016 in S.L.P. (C) Nos. 24072 to 24074 of 2016 before the Hon'ble Supreme Court of India, it was held as follows:-

"The Special Leave Petitions are dismissed.

At this stage, Mr. Hedge, Learned Senior Counsel appearing for the Petitioner, submits that some time be granted to the Petitioner to vacate the premises as it will take some time to wind up the business.

Having regard to the aforesaid fact, we grant time up to 31st October, 2016, to the Petitioner to vacate the premises, however, subject to the filing of usual undertaking in this Court within a period of one week."

2. It is represented by the Learned Counsel for both sides that despite the aforesaid order of the Hon'ble Supreme Court of India, there had been subsequent extension of licenses for the Petitioner, which had been last passed by order No. AAM/C.2367/739-751 dated 22.03.2019, the contents of which are extracted below:-

"Please refer this office letter No. AAM/C.2367/2019/489-501 dt. 25.02.2019 vide which the subject license has been extended for a period up to 31.03.2019 on payment of license fee of Rs.3,08,136/- per month and your letter dated 09.02.2019 requesting for further extension of the subject license.

It has been decided by the Competent Authority to extend the subject license for a further period i.e. upto 30.06.2019 or till finalization of new tender at Chennai Airport whichever is earlier on payment of escalated license fee plus all applicable charges with 10% compound annual escalation. Accordingly, the rates of license fee payable during the extended period shall be as given below:

w.e.f. 01.04.2019 to 15.04.2019 - Rs.3,08,136/- p.m.
plus utility charges + GST

w.e.f. 16.04.2019 to 30.06.2019 - Ra.3,38,950/- p.m.
plus utility charges + GST

The existing Security Deposit available with AAI

may be got renewed for the extended period. The above extension is subject to clearance of all outstanding dues, which shall be complied with. The other terms and conditions of license shall remain unchanged except:-

a) In Clause 30 of the Other Terms and Conditions, the Public Premises Act (Eviction of Unauthorized occupants) shall be read as Airport Authority of India Act, 1994, along with 2003 Amendment Act and the rules framed thereunder, and

b) Termination of the agreement shall be with a notice period of 15 days or on expiry of the extension period, it shall be agreed as waiver of notice period for termination.

Kindly acknowledge the receipt."

The Second Respondent by letter No. AAM/C.2367/2019/1056 dated 22.05.2019 informed the Petitioner that it has been decided by the Competent Authority to give a notice of termination for the license, which shall be terminated in 15 days from the date of receipt of the same. The Petitioner has filed this Writ Petition challenging the aforesaid notice.

3. When the matter came up for admission during the Vacation Sitting of this Court on 30.05.2019, this Court had passed the following order:-

"Mr.M.Palanimuthu, learned Standing counsel takes notice for the respondents.

2. During the course of arguments, it appeared that the Apex Court has passed an order in Special Leave to Appeal (C) Nos.24072-24074 of 2016 dated 05.09.2016 had already granted time till 31.10.2016, to the petitioners to vacate the premises and also directed them to file undertaking to that effect within one week.

3. Despite such categorical direction by the Apex Court, it appears that the license has been renewed periodically till 30.06.2019 for the reasons best known to the respondents and the impugned notice has been issued for terminating the license.

4. Under these circumstances, this Court is of the view that the respondents has to explain under what circumstances, the licence has been extended, despite the order of the Apex Court. For filing such detailed counter affidavit, post this matter on 10.06.2019, till such time status quo to be maintained.

5. The learned Standing counsel appearing for the respondents submitted that the tender is now in process. Therefore, the petitioners are also permitted to participate in the tender process."

4. The Respondents have filed Counter Affidavit with supporting documents stating that fresh tender has also been floated in which technical bid was to be opened at 15.00 hours on 24.06.2019 and financial bid at 15.00 hours on 28.06.2019. As could be seen from the earlier order passed by this Court on 30.05.2019, the Petitioner was permitted to participate in that tender. In this backdrop, when the time period of license granted by the Second Respondent in order No. AAM/C.2367/2019/1056 dated 22.05.2019 comes to end on 30.06.2019, the question of permitting the Petitioner to continue business with the license granted on 22.03.2019 beyond 30.06.2019 does not survive for consideration. In that view of the matter, the Petitioner shall hand over the premises to the Competent Authority of the Respondents on 30.06.2019, when the license granted to the Petitioner on 22.03.2019 lapses, failing which it is open to the Respondents to take necessary action in this regard in accordance with law.

5. Learned Counsel for the Petitioner submits that the aforesaid conclusion arrived by this Court ought not to be construed by the Respondents as precluding the Petitioner from making any request for further extension of license to the Competent Authority. It is needless to add here that no views are expressed by this Court on the correctness or entitlement of the Petitioner to make any request in this regard.

6. The Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.
vjt/rkp

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Airports Authority of India,
Rajiv Gandhi Bhavan,
Safdarjung Airport Area,
New Delhi - 110 003.
2. The Airport Director,
Airports Authority of India,
Chennai International Airport,
Meenambakkam,
Chennai - 600 027.

+1cc to Mr.R.Parthasarathy, Advocate, SR.No.52415
+1cc to Mr.R.A.Arul Mary, Advocate, SR.No.52246

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and
W.M.P. Nos.15124, 15126 to 15128 of 2019

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