

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.27816/2019

A.Syed Kaleesha

Petitioner

Versus

1.The Secretary
Ministry of Railways
Room 256-A, Rail Bhawan
Raisina Road, New Delhi 110 001.

2.The Chairman
Railway Board
Room 256-A, Rail Bhawan
Raisina Road, New Delhi 110 001.

..

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to grant 75% concession in the railway fair to all those who have enrolled as advocates.

For Petitioner : Mr.A.Syed Kaleesha
Party-in-person

For Respondents: Mr.P.T.Ramkumar

WEB COPY

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

(1)By consent, the writ petition is taken up for final disposal. Mr.P.T.Ramkumar, learned counsel accepts notice on behalf of the respondents 1 and 2.

(2)The petitioner is a practising lawyer and came forward to file this writ petition as a Public Interest Litigation stating among other things that the Railway Administration

has published a list of different categories of persons granted concession on Indian Railways and drawn the attention of this Court to page No.1 of the Typed set of documents and would submit that as many as 50 categories have enumerated for availing the concession which include Artistes-for performance and they have been granted 75% in II Class Sleeper ; 50% concession in First Class, AC Chair Car, AC 3-tier ; AC 2-tier and 50% in Rajdhani / Shatabdi / Jan Shatabdi, AC Chair Car, AC 3-tier and AC 2 - tier ; whereas, the lawyers who espouse the cause of the public and also one of the important pillars of the Democracy, have not been granted any concession at all. The petitioner, in this regard, has submitted a representation dated 10.08.2019 to the 1st respondent and despite receipt and acknowledgment, no response is forth coming and therefore, came forward to file the present writ petition as Public Interest Litigation.

- (3) The petitioner / Party-in-person has invited the attention of this Court to the affidavit filed in support of this writ petition as well as to the typed set of documents and would submit that when Cine artistes are granted concession up to 75% of the railway fare in II Class and 50% of concession in First Class etc., it is obligatory on the part of the Railway Administration to extend the some percentage of concession in railway fares to the Advocates also and hence, prays for appropriate orders.
- (4) This Court has considered the arguments advanced by the learned counsel for the petitioner and also perused the materials placed before it.
- (5) At the outset, it is to be noted that the petitioner who is also a practising Advocate, did not point out any infraction or non-compliance of the statutory provisions for maintaining this writ petition for the relief of mandamus. The petitioner/Party-in-person presumes that Clause No.46 of the List of Different Categories of persons granted concessions by Indian Railways are mainly pertain to Cine Artistes overlooking the fact that there are other performing artistes also.
- (6) In the judgment reported in 2010 [3] SCC 402 [State of Uttaranchal Vs. Balwant Singh Chaufal and Others], the Hon'ble Supreme Court of India has also considered the issue relating to the Public Interest Litigation filed by a Lawyer and it is observed that "it was expected from a member of a noble profession not to invoke the jurisdiction of the Court in a matter where the controversy itself is no longer res integra. The petitioner, a local practising lawyer, ought to have bestowed some care before filing this writ petition as a Public Interest Litigation under Article 226 of the Constitution of India."

(7) In yet another judgment reported in 2008 [1] MLJ 1075 [SC] [Holicow Pictures Pvt Ltd Vs. Prem Chandra Misra and Others], the Hon'ble Supreme Court of India, once again considered the scope of the Public Interest Litigation and in paragraph No.18, had observed that "it should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta.....Often, they are actuated by a desire to win notoriety or cheap popularity. The petitioner of such busy bodies deserve to be thrown out by rejection at the threshold and in appropriate cases, with exemplary costs."

(8) This Court can also take judicial notice of the fact that this Country is slowly moving from "subsidy/concession Era" and endeavour is being made by the policy makers to withdraw the concessions / subsidies and however, the petitioner/party-in-person, under the garb of this Public Interest Litigation, wants the extension of concession by the Railway Administration in favour of lawyers. As already pointed out, in the absence of any statutory violation or infraction of statutory duty cast upon the concerned officials of the respondents, the petitioner/party-in-person cannot maintain this writ petition.

(9) Therefore, the writ petition stands dismissed at the admission stage itself. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary
Ministry of Railways
Room 256-A, Rail Bhawan
Raisina Road, New Delhi 110 001.

2.The Chairman
Railway Board
Room 256-A, Rail Bhawan
Raisina Road, New Delhi 110 001.

+1cc to Mr.A.Syed Kaleesha, Advocate sr.80471

+1cc to Mr.P.T.Ramkumar, Advocate sr.80959

WP.No.27816/2019

gp(co)

nr 23/10/2019