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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.7798 of 2019

and

W.M.P. (MD) Nos.6190 and 6191 of 2019

S.Rabik Raja

... Petitioner

Vs

1.The Senior Divisional Commercial Manager,
Southern Railway, Chennai Division,
Chennai - 600 003.

2.The Senior Divisional Commercial Manager,
Southern Railway, Trichy Division,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders No.M/C.79/GMU-36/CGL and M/C.79/GMU-16/CGL dated 20.12.2018 on the file of the first respondent and quash the same and further directing the second respondent to grant the license for the stalls in S-18 andn S.25 in Villupuram Railway Station.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.Manohar

ORDER

The writ petitioner is a railway contractor. He had taken part in the bid for securing license for running catering stall at CGL Station. Eventhough, the contract was awarded, the petitioner failed to remit the License fee as well as the Security deposit. Therefore, the first respondent issued notice dated 19.11.2018, calling upon the petitioner to remit the said amounts on or before 28.11.2018. The petitioner did not pay the amount in question within the stipulated time. As a result, the EMD deposited by the petitioner was forfeited. While doing so, the first respondent also debarred the petitioner from participating any bid for a period of five years from 20.12.2018 to 19.12.2023. This order dated 20.12.2018 is under challenge in this writ petition.

2.The respondents have filed their counter affidavit. After hearing the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents, I am of the view that the order forfeiting the EMD submitted by the petitioner does not warrant any interference. Therefore, the order impugned is sustained in this regard.



3.It is seen that before blacklisting the petitioner, the petitioner was not put on notice. This approach of the first respondent is clearly contrary to the decision of the Hon'ble Supreme Court reported in **(2014) 9 SCC 105** in the case **of Gorkha Security Services Vs. Government (NCT of Delhi) and others.**

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4.In this view of the matter, the impugned order dated 20.12.2018 issued by the first respondent, is quashed to the extent it debarred the petitioner from participating in any bid for the period of five years from 20.12.2018 to 19.12.2023. This writ petition is partly allowed.

5.The matter is remitted to the file of the first respondent to pass orders afresh and in accordance with law, after putting the petitioner specifically on notice.

6.The petitioner claims that he is a successful bidder in respect of the Stall No.S.18 and S.25 in Villupuram Railway Station. He wants the second respondent to issue the license.

7.I am of the view that this may have to await the outcome of the black listing proceedings. In any event, I have not gone into the merits of the matter. I am leaving all the petitioners contentions open, in this regard. The second respondent shall not hand over the stall No.S.18 and S.25 to any third party till the decision is taken by the first respondent pursuant to these proceedings.

8.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Senior Divisional Commercial Manager,
Southern Railway, Chennai Division,
Chennai - 600 003.

2.The Senior Divisional Commercial Manager,
Southern Railway, Trichy Division,
Tiruchirappalli.

+1cc to Mr.G.Prabhu Rajadurai,Advocate, SR.No.63909

+1cc to Mr.S.Manohar,Advocate, SR.No.64036

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