



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.16314 of 2019
and
W.M.P(MD).No.12969 of 2019

S.Rabik Raja

...Petitioner

-Vs-

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

2.N.Syed Zafurullah,

3.A.Mohammed Yunus

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the impugned order in No.T/C.79/Catering stall S-1(GMU)/VRI/2018 dated 11.07.2019 on the file of the first respondent and quash the same and further directing the first respondent to issue the letter of award in respect of the license to run catering stall S-18 and S-25 in Villupuram Station in view of the petitioner being the highest bidder.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.Manohar (For R1)
Standing Counsel

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, to quash the proceedings in No.T/C.79/Catering stall/ S-1(GMU)/VRI/2018, dated 11.07.2019 on the file of the first respondent and further, to direct the first respondent to issue the Letter of Award in respect of the license to run Catering Stall S-18 and S-25 in Villupuram Station, in view of the petitioner being the highest bidder.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for



the petitioner and Mr.Manohar, learned Standing Counsel appearing for the first respondent. Since no adverse order is going to be passed against the respondents 2 and 3, notice to them is dispensed with.

3.In the impugned order, dated 11.07.2019, the earlier order passed by the first respondent blacklisting the petitioner at Viruthachalam Railway station has been reiterated. Challenging the same, the present writ petition has been filed.

4.The main ground raised by the petitioner assailing the present impugned order is that, already for the very same issue, a writ petition was filed by the petitioner in W.P(MD).No.5292 of 2019, where this Court, by order dated 29.04.2019, has stated the following:-

"5.As regards blacklisting for a period of five years, I am of the view that it should have been preceded by a specific notice. It payment of License fee and Security Deposit. It is quite possible that the petitioner has some good and convincing reason for not being able to make the said payment. Therefore, the respondent ought to have issued a separate proceeding in this regard. A composite notice could not have been issued. In this view of the matter, this Court interferes with the impugned order only to the extent it debars the writ petitioner from participating in any railway contracts for a period of five years.

6.The petitioner claims that he is the highest bidder sofar as Stall Nos.18 and 25 in Villupuram Railway Station. In view of the impugned order, he was not awarded the contract.

7.I am of the view that since the matter has been remitted to the file of the respondent, the Stall Nos.18 and 25 in Villupuram Railway Station shall not be handed over to any other third party, till the decision is taken by the first respondent pursuant to these proceedings.

5.Despite the said order having been passed directing the first respondent to give a specific notice to the petitioner and after hearing him, to decide the issue, the first respondent has sent a communication on 29.05.2019, which states the following:-

"in view of the judgment of Hon'ble High Court of Madras, Madurai Bench in W.P(MD).No.5292 of 2019 & W.P (MD).No.7798 of 2019, you are advised to attend the Office of Sr.Divisional Commercial Manager, Tiruchirappalli Division for counselling at 15.00 hrs of 03.06.2019."

6.After this communication, the present impugned order reiterating the earlier order of blacklisting has been made. Therefore, the learned counsel for the petitioner would submit that,



the said communication dated 29.05.2019 is not inconsonance or in pursuance of the order passed by this Court in the earlier round of litigation, by order dated 29.04.2019.

7.I have heard the learned Standing Counsel appearing for the first respondent, who would submit that, the petitioner has already been blacklisted in Virudhachalm, Myladuthurai and Thanjavur, as against which, there is no other proceedings pending and as of now, it has become final. However, insofar as the blacklisting at Virudhachalam Railway station is concerned, this Court directed the first respondent to issue notice, pursuant to which, notice was issued on 29.05.2019 and after hearing him only, the present order is passed.

8.I have considered the rival submissions made by both sides and perused the materials placed before this Court.

9.On perusal of the said notice, dated 29.05.2019, as has been extracted above, this Court finds that, the said notice cannot be treated as the notice meant by this Court, by order dated 29.04.2019, as the notice must have been specific on the allegations, based on which, the order of blacklisting has been passed or to be passed against the petitioner and that should have been specifically mentioned, based on which, show cause should have been asked from the petitioner. Since the letter, dated 29.05.2019 only stated that the petitioner was advised to attend the Office of Sr.Divisional Commercial Manager, Tiruchirappalli Division for counselling at 15.00 hrs of 03.06.2019, it cannot be construed as the show cause notice. Therefore, based on such communication, if at all, the impugned order is passed, the same cannot be considered to be inconsonance with the directive issued by this Court in the earlier order and on that sole ground, this Court is of the view that, the impugned order can be quashed and the matter can be remitted back to the first respondent for reconsideration. Accordingly, this Court is inclined to dispose of this writ petition with the following directions:-

"that the impugned order, dated 11.07.2019 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for reconsideration. While reconsideration, the first respondent shall give specific show cause notice to the petitioner, as to why he should not be blacklisted in Virudhachalam Railway Station and on receipt of such show cause notice, the petitioner shall respond to the said show cause notice, within a time given in that notice and on receipt of such reply or if no reply is filed within the time stipulated, the first respondent shall decide the issue on merits and in accordance with law and accordingly, final order shall be passed thereon, within a period of two weeks, thereafter. "

10.With the above directions, this writ petition is disposed



of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar (CS)

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

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-77440[F] dated 25/07/2019)

+1 CC to M/s.S.MANO HAR, Advocate (SR-77567[F] dated 25/07/2019)

Order made in
W.P. (MD) No.16314 of 2019
24.07.2019

rmk
JMN(13.09.2019) 4P : 4C