

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-19432-2017 (O&M)
Date of Decision: 01.05.2019

M/s Doon Caterer

--Petitioner

Versus

Union of India & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. S.L. Chander Shekhar, Advocate for the petitioner.

Mr. G.S. Bajwa, Advocate with
Ms. Charanjeet Kaur, Advocate for respondents.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner is a Railway Contractor. Petitioner was allotted vending contract pertaining to Stall No.14 at Platform No.4/5, Railway Station, Ludhiana vide license which was valid for a period of 5 years commencing w.e.f. 28.9.2009 up to 27.9.2014. Petitioner was then granted extension from 28.9.2014 to 22.2.2015. Subsequently, another extension was given w.e.f. 23.2.2015 to 27.9.2017 i.e. a total period of extension of 3 years in addition to the initial license period of 5 years.

The instant writ petition has been filed assailing an order dated 16.8.2017 (Annexure P-11) passed by the Senior Divisional Commercial Manager, Northern Railway, Ferozepur Division, Ferozepur and in terms of which the request/application made by the petitioner on 10.8.2017 for further extension of contract qua the stall in question, has been declined.

Counsel for the petitioner has vehemently argued that in similar matters the Andhra Pradesh High Court in the case of *S.C.R Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association Vs. Senior Divisional Commercial Manager (Andhra Pradesh), 2013 (5) Andh LD 553* had taken a view that the Catering Policy of 2010 is to apply and the members of

the petitioner Association therein are entitled to renewal of their licenses subject to satisfying the conditions stipulated in paras 16.1.3 and 16.2.1 of the Catering Policy, 2010. Counsel further submits that the decision of the Andhra Pradesh High Court was challenged by the Indian Railways before the Hon'ble Apex Court by way of various S.L.Ps which were converted into Civil Appeals and the Hon'ble Supreme Court took a view that the provisions of the Catering Policy, 2010 were applicable to the concerned respondents and the action of the Railways in not granting renewal of licenses to the members of the respondents therein is arbitrary, unreasonable, unfair and discriminatory.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no infirmity in the order dated 16.8.2017 at Annexure P-11.

There is no dispute with regard to the factual position that the license for running a stall had been granted to the petitioner for a period of 5 years initially i.e. from 28.9.2009 to 27.9.2014. He has thereafter been granted extensions/renewals for a period of 3 years i.e. up to 27.9.2017.

Clause 17 of the Catering Policy, 2010 clearly states that renewal will not be a matter of right and that the licensee must apply for renewal minimum six months in advance before the expiry of the contract. Concededly, the last extension granted in favour of the petitioner was up to 27.9.2017. The representation/application made by the petitioner was only on 10.8.2017 i.e. approximately 45 days prior to the expiry of the contract.

A similar issue came up before this Court in a bunch of petitions including ***CWP-7839-2017 (M/s A.K. Roy Vs. Union of India & others)*** and other connected petitions and which was decided on 14.9.2017.

This Court has perused the judgement dated 14.9.2017 passed in **M/s A.K. Roy** (supra) at Annexure R-4/2. In the considered view of this Court, the petitioner herein is similarly situated to the petitioner therein. Even though, at this stage, counsel for the petitioner would interject to contend that in case of **M/s A.K. Roy** (supra) the stalls had already been closed but that would be of no consequence inasmuch as even in the present case the contract/license period of the petitioner stood expired on 27.9.2017 and it is only by virtue of certain interim directions that the petitioner continues to operate.

The relevant portion of the judgement in **M/s A.K. Roy** (supra) which has been rendered after considering the judgement of the Andhra Pradesh High Court as also the judgement of the Hon'ble Supreme Court in **S.C.R Caterers's** case (supra) reads in the following terms:-

"I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no dispute that the petitioner had a vending contract/agreement with the IRCTC at a particular platform of the railway station of the Northern Railways for a period of 5 years. It is also not in dispute that an extension for a period of 3 years has already been consumed by the present petitioner. It is also not in dispute that the renewal of a catering agreement is not a matter of right rather the licensee must have to apply for renewal minimum six months in advance before the expiry of the contract. However, in the present case, the petitioner has not applied in terms of Clause 17 of the 2010 Policy.

*The question, thus, would be as to whether the decision of the Andhra Pradesh High Court or the decision of the Supreme Court in **S.C.R. Caterer's case (supra)** would be of any help to the petitioner. In this regard, it requires pertinent notice that the aforesaid decision was pertaining to the South Central Railway caterers who were traditionally*

sitting over the platforms, engaged in the vending business, and had approached the Court for the purpose of extension of their licenses, which was allowed by the Court on the ground that they would apply for renewal of their licenses within a period of one month and then it shall be considered by the Railways in terms of the provisions of the 2010 Policy. However, when the Indian Railways went to the Supreme Court, the decision of the Andhra Pradesh High Court was though upheld and the SLPs were dismissed but with a rider that only those licensees would be eligible for renewal of their licenses who can declare on affidavit that they do not have the license of more than one shop or kiosk in their name or benami license at the railway stations.

The case of the respondents is that the petitioner has not furnished any such affidavit so far because according to them, the petitioner has got multiple shops/kiosks either in their name or benami at the various railway stations. In this regard, the time was stated to have been extended on 31.03.2017 for awaiting the affidavit but it cannot be made indefinite for the contractors to continue with their work, despite the expiry of contract period, in the name of filing of the affidavits.

Be that as it may, the precise matter, which is involved in this case, has been decided by the Delhi High Court where the writ petitions filed by the similarly situated persons including the present petitioner, who had filed WP(C) No.5356/2016 titled as “M/s A K Roy vs. Union of India & ors.”, were dismissed, in which the issue was raised that the licenses were granted to the petitioners therein for operating and managing their stalls initially for a fixed period. The said licenses were renewed from time to time and because of the circulars whereby extensions have been granted till finalization of the new contracts, they should have been allowed to work and not to vacate the stalls. The said writ petitions were dismissed by the Delhi High Court vide order dated 20.09.2016.

*In view of the above, I concur with the view taken by the Delhi High Court in **M/s Deepak & Co.'s case (supra)**.*

No other point has been raised.

Consequently, in view of the aforesaid discussion, all the writ petitions are hereby dismissed being denuded of any merit, though without

any order as to costs.

September 14, 2017

**Sd/-
(Rakesh Kumar Jain)
JUDGE”**

The instant writ petition is also dismissed in the light of reasoning as has been recorded by the Coordinate Bench in *M/s A.K. Roy* (supra).

Petition is dismissed.

All the pending application(s) also stand disposed of.

**(TEJINDER SINGH DHINDSA)
JUDGE**

01.05.2019

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No