

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.16882 of 2020
and
W.M.P.No.20942 of 2020

T.Vijayalakshmi

... Petitioner

Vs.

1. The Union of India,
Represented by its Principal Secretary,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. The Railway Board,
Represented by its Chairman,
Rail Bhawan, New Delhi.
3. The General Manager,
O/o.The General Manager,
Southern Railway,
Park Town,
Chennai - 3.
4. The Senior Divisional Commercial Manager,
O/o.The General Manager,
Southern Railway,
Park Town,
Chennai - 3.
5. The Chief Commercial Manager,
Southern Railway,
Park Town, Chennai - 3.
6. The Divisional Railway Manager,
Madras Zone, Southern Railway,
Park Town, Chennai - 3.

.. Respondents

PRAYER: The Writ Petition has been filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondent Nos.3 to 6 to consider the petitioner's representation dated 29.05.2020 and dispose of the same within a reasonable time that may be fixed by this court before

implementing the propagation contemplated in the second respondent's letter No.2020-TG.IV/18/Misc/Comm1 Contracts dated 07.09.2020.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.P.T.Ramkumar

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O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Mandamus to direct respondent Nos.3 to 6 to consider the petitioner's representation dated 29.05.2020 and dispose of the same within a reasonable time that may be fixed by this court before implementing the propagation contemplated in the second respondent's letter No.2020-TG.IV/18/ Misc/Comm1 Contracts dated 07.09.2020.

2. The petitioner was the successful tenderer for manning the Cycle/Scooter Parking Stand at Thirumayilai Railway Station. The contract was taken up by the petitioner from 01.10.2018 for the period of three years, which comes to an end on 30.09.2021. Due to out break of the pandemic, there was a total lockdown and there were no trains being operated as there was a complete stoppage. The petitioner's business of manning the parking stand is also affected as there was no passenger.

3. In the meanwhile, the second respondent had sent a communication dated 07.09.2020, as per which, 90 days relaxation in lincense fees was granted to the existing commercial earning operational contracts viz., Parking, pay and use toilets, STD/PCO booth, ATM, etc., treating the period between 25.03.2020 and 22.06.2020 as "dies-non".Further, relief in charging the license fee after the said period may be considered by the Zonal Railways under the existing terms and conditions of contracts which provide for addition/ modification/review in existing agreement with mutual consent, with concurrence of Finance. After receiving the above-said communication, the petitioner has filed this Writ Petition.

4. The representation was sent by the petitioner dated 29.05.2020 mootng certain proposals which would include keeping implementation of revised parking fees in abeyance and consider the implementation of the revised parking fees for the existing contractors and permit the contractors, who had already completed their contracts to remove the shed used for parking, which had been erected out of their personal funds and refund all amounts withheld by the Railways on account of payment of

GST, etc., and also revoke the Bank Guarantee given for Security Deposit and replace the same by reducing it by 10% and other demands.

5. The learned counsel, who has taken notice on behalf of the respondents, would submit that the fourth respondent is empowered to decide the above demands raised by the petitioner.

6. In the earlier Writ Petition, this Court had already given a direction. It is stated that despite giving opportunities more than twice, the petitioner was not cooperating for the enquiry. However, it is stated by the learned counsel for the petitioner that the dates were during the cyclone season and they could not venture out in the absence of public transport.

7. In such circumstances, without going into the merits of the cases, this Court directs the fourth respondent/Senior Divisional Commercial Manager to consider the petitioner's representation dated 29.05.2020 by affording her an opportunity of personal hearing or virtual hearing and consider the same on merits. The fourth respondent is directed to fix a date of hearing on 28.12.2020 and pass orders within a period of two (2) weeks thereafter. The petitioner is directed to appear before the fourth respondent on that day to make her submissions.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1. The Principal Secretary,
Union of India,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. The Chairman
The Railway Board,
Rail Bhawan, New Delhi.

3. The General Manager,
O/o.The General Manager,
Southern Railway,
Park Town, Chennai - 3.
4. The Senior Divisional Commercial Manager,
O/o.The General Manager,
Southern Railway,
Park Town, Chennai - 3.
5. The Chief Commercial Manager,
Souther Railway,
Park Town, Chennai - 3.
6. The Divisional Railway Manager,
Madras Zone, Southern Railway,
Park Town, Chennai - 3.

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