

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.18780 of 2020
and
W.M.P.No.23346 of 2020
(Heard through VC)

M/s.Ranjana Enterprises,
Proprietorship Firm,
Rep. by its Authorised Representative
M.Anandan,
No.A-123, Sky Lark, Section-II,
CBD, Belapur,
Navi Mumbai - 400 614.

... 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: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 3 to 6 to consider petitioner's representation dated 10.06.2020 and dispose of the same within a reasonable time frame fixed by this Honble 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

O R D E R

The petitioner has sought for a writ of mandamus directing the Respondent Nos.3 to 6 to consider petitioner's representation dated 10.06.2020 and dispose of the same within a reasonable time frame fixed by this Hon'ble 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 is the contractor for manning of vehicle parking stands at Chennai Egmore, and it entered into an agreement for a period of 3 years commencing from 19.04.2017 to 18.04.2020 in this regard. Due to the sudden announcement of the Covid lock down, some of the customers, who had parked their vehicles in the vehicle parking stand were not able to take back their vehicles. The respondents had not made any other alternative arrangement for safeguarding the vehicles in the vehicle parking stand during the said situation. Hence, the petitioner was forced to keep the vehicle parking stand open even during the lock down period. Clause 11 of the Letter of Acceptance contemplates that the petitioner is responsible for the loss or damage to vehicles or their parts, while under its custody at the parking stand and any claim on the said account should be met by the petitioner. In this regard, the petitioner has submitted a representation dated 10.06.2020 to the respondents seeking pro-rata reduction in license fee from 15.03.2020 to 21.03.2020 and complete waiver of the same from 22.03.2020 till the current situation becomes normal.

3. The petitioner himself has stated that in view of the pandemic, there was an extension given vide communication No.2020/TG-IV/18/Misc/Comm1 Contracts dated 07.09.2020, treating the period from 25.03.2020 to 22.06.2020, as 'dies-non'. It is also further stated that once the contractor accepts the relief provided by the Railways, they have to give an undertaking that they will not surrender the contract midway. The relief, if

given by Zonal Railways, will be applicable only for contracts valid till December, 2020 and beyond.

4. It is seen that on 19.10.2020, the Divisional Railway Manager has sent a communication to the petitioner stating that the contract is closed with effect from 00:00 hrs. of 19.10.2020/20.10.2020 asking him to vacate the parking premises and also to hand over unclaimed vehicles, if any, to the Station Manager / Commercial Supervisor / Commercial In charge duly preparing a list of such vehicles. However, the grievance of the petitioner is that the representation sent by it on 10.06.2020 was not considered by the respondents, while passing the order dated 19.10.2020.

5. Though the respondents have already issued the closure notice, admittedly the representation of the petitioner dated 10.06.2020 was not considered. Therefore, the fourth respondent is directed to consider the representation of the petitioner dated 10.06.2020 and pass a considered and reasoned order, on merits and in accordance with law, after giving them an opportunity of personal hearing or virtual hearing or otherwise or considering their written objections and after verifying the relevant documents, if any, within a period of six weeks from the date of receipt of a copy of this order. In view of the above direction, the closure notice dated 19.10.2020 is set aside.

6. Status-quo as on date should be maintained till then.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi

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,
Southern Railway,
Park Town, Chennai - 3.
 6. The Divisional Railway Manager,
Madras Zone, Southern Railway,
Park Town, Chennai - 3
- +1 CC to Mr.V.R.Kamalanathan, Advocate sr 41235.

W.P.No.18780 of 2020
and
W.M.P.No.23346 of 2020

BR(CO)
SP(05/02/2021)



WEB COPY