



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8610 of 2020

and

W.M.P.(MD)Nos.7976 and 8014 of 2020

M.Mohamed Akbar

... Petitioner

Vs

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

2.The Group General Manager,
Indian Railways Catering and
Tourism Corporation Ltd (IRCTC),
South Zone 64, The Rain Tree Place,
No.9, Mr.Nicholas Road,
Chepauk, Chennai-600 030.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the impugned letter No.2019/IRCTC/SZ/VRR-VM, dated 21.07.2020 on the file of the second respondent and quash the same and further directing the respondents to either permit the petitioner to run the Vegetarian Refreshment Room (VRR) Unit in Platform 4 and 5 of Vilupuram Station for a period of 30 days after lock down to refund the license fee for the period of 30 days with GST on the said amount along with interest and profit margin .

For Petitioner : Mr.Jayamohan
for Mr.G.Prabhu Rajadurai
For R1 & R2 : Mr.S.Manohar

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2.The petitioner was awarded the contract of running the petition mentioned Catering Stall. It is stated that in the year 2017, the policy relating to catering service underwent change. A fresh agreement was entered into among the parties on 17.08.2017.



The petitioner alleges that in the month of November 2017, the Catering Stall run by the petitioner was unlawfully closed. The petitioner states that during the period of closure between 12.11.2017 and 17.12.2017, the petitioner suffered loss at the rate of not less than Rs.9,000/- per day. The petitioner's license period had come to an end in March 2020. Since COVID intervened, the license period was cut short by some eight days. The respondents have compensated the petitioner regarding the loss of those eight days. But the petitioner states that he should be compensated for the unreasonable closure which he suffered between 12.11.2017 and 17.12.2017. The petitioner either wants refund of the license fee or extension of his license period by 30 more days. This request of the petitioner made vide letter dated 15.02.2020 was rejected by the impugned order dated 21.07.2020. This order is under challenge in this writ petition.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.I am unable to accept the aforesaid submission. As rightly contended by the learned Standing Counsel appearing for the respondents, the version projected by the petitioner is strongly contested by the respondents herein. Therefore, there is a factual controversy. In the very nature of things, this requires letting in evidence. The version projected by the writ petitioner cannot be established, unless an enquiry is conducted and evidence is adduced. In writ jurisdiction, such a course of action is not possible. Therefore, leaving open the petitioner's rights to question the impugned communication in the manner known to law, the Writ Petition stands dismissed. I make it clear that though I have denied the relief to the petitioner, I have not adjudicated the petitioner's rights and the same are left open. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmi

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the

responsibility of the advocate/litigant concerned.

<https://hcservices.eas.gov.in/services/>



To

The Senior Divisional Commercial Manager,
Southern Railway, Tiruchirappalli.

WEB COPY

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-13594[F] dated
04/08/2020)

+2 CC to M/s.S. MANOHAR, Advocate (SR-13765[F] dated 06/08/2020)

W.P. (MD) No. 8610 of 2020
04.08.2020

sr(CO)

TR(14.08.2020) 3P 5C