

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 5067 of 2021

Tarik Imtiyaz Sheikh S/o Shri Imtiyaz Ahed Sheikh Aged About 71 Years
R/o Near Maszid, Mukhraj Ward, Ramnagar, Gondiya, Maharashtra.,
District : Gondiya, Maharashtra.

---Petitioner(s)

Versus

- 1.** Union of India Through Chief Commercial Manager, Mantrolaya, Railway Department, Vallabh Bhawan, New Delhi.
- 2.** The Senior Divisional Commercial Manager Raipur Division, S.E.C.L. Railway, Raipur, Chhattisgarh.
- 3.** Chief Commercial Manager Nagpur, Office of Senior D.C.M. (CI) Nagpur, Maharashtra, Chhattisgarh.

---Respondents

For Petitioner	:	Shri TK Tiwari, Advocate.
For Respondents	:	Shri RK Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17.12.2021

- 1.** The present writ petition has been filed seeking for the following relief(s)-

“10.1. That, the Hon'ble Court be pleased to issue writ of mandamus/directions/orders thereby commanding the respondents not to act illegally relating to the eviction/forcibly dispossession of the petitioner from his allotted MPS Stall situated at Gondiya Railway Station.

10.2. The Hon'ble Court be pleased to issue writ of mandamus against the respondents No.2 as to comply with the circular issued by the Respondent No.1 relating to MSP Stall for which the petitioner is complying with the condition and regularly depositing the license fee.”

- 2.** The contention of the petitioner at the outset itself is that there is no impugned order as such passed by the respondents which is adverse to the interest of the petitioner. The reason for filing the petition was certain oral instructions that the petitioner has received from the office of the respondents No.2&3.

- 3.** The above fact is disputed by the Standing Counsel for the respondents.

The contention of the respondents is also that there was no sort of agreement whatsoever as per his instructions between the respondents and the petitioner. It at all if there is an agreement, the agreement was between the respondents with A.H. Wheelers and Company Pvt. Ltd. who is not a party to this proceeding nor is it one of the petitioners in the present writ petition.

- 4.** Further, the counsel for the petitioner also submits that the dispute between the respondents and A.H. Wheelers & Company Pvt. Ltd. is already subjudic before the Supreme Court and there is also some interim protection given by the Supreme Court as would be reflected from the correspondence dated 11.11.2005 issued by the Executive Director, Railway Board and therefore any act on the part of the respondents adverse to the interest of the petitioner would be in violation of the order of the Supreme Court.

- 5.** Given the said submissions by the counsel for the parties and also considering the contents of document dated 11.11.2005 issued by the Railway Board, once when the matter is already seized by the Supreme Court and there being some interim order passed by the Supreme Court, it would not be proper and justified for this court to entertain the writ petition in the given factual backdrop of the same dispute, at this juncture. Moreover, this court is also reluctant to entertain the writ petition for the reason that there being no order as such issued by the respondents which is under challenge here except for an allegation of some oral instructions which is said to have been issued by the respondents No.2&3 which again stands disputed by the standing counsel. More so, this court would find it

difficult to entertain a writ petition only on the allegation of certain oral instructions being issued.

6. For all the aforesaid reasons, the present writ petition in its present form stands disposed of reserving the right of the petitioner to approach the court in the event if an occasion so arises or there being an order issued by the respondents against the petitioner.

Sd/-
(P. Sam Koshy)
Judge

inder