

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

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THE HONOURABLE Mr.JUSTICE ABDUL QUDDHOSE

W.P. No.1061 of 2021

and

W.M.P.Nos.1169, 1171, 1174 and 1176 of 2021

Indian Railways Mobile Caterers
Association (IRMCA),
Having its Administrative Off,
at 4 and 5, Arunachalam Lane,
Periamet, Chennai - 3,
Rep by its President,
S.B.Agarwal ... Petitioner

Vs

1. Union of India,
Ministry of Railways,
Through its Secretary,
Rail Bhawan,
New Delhi - 110 001.
2. Indian Railways Catering and Tourism
Corporation Limited (IRCTC),
Through its Chairman and Managing Directors,
Corporate Office at
11th and 12th Floor, Statesman House Building,
B-148, Barakhamba Road,
Connaught Place, New Delhi - 110 001 ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records on the file of the second respondent pertaining to the Tender Limited E.Tender No.2021/RCTC/DCS/WCB/M1/REGULAR/01, Bid opening date 20.01.2021 and quash the same consequently restore and operationalise the mobile unit catering licenses of the members of the petitioner-Association with immediate effect on same terms and conditions as prior to COVID-19 situation i.e.20.03.2020 and further permit the members of the petitioner-Association to resume catering services in the Mobile units.

For petitioner ... Mr.AR.L.Sundaresan,
Senior Counsel for
Mr.T.N.C.Kaushik

For respondent-1 ...Mr.P.T.Ramkumar

For Respondent-2... Mr.R.Thyagarajan,
Senior Counsel

ORDER

This Writ Petition has been filed challenging the impugned tender, which is scheduled to be opened on 20.01.2021 on the ground that the members of the petitioner-Association, who are having valid licences to operate mobile catering services in the trains belonging to the respondents will be greatly prejudiced.

2. Mr.P.T.Ramkumar, learned counsel accepts notice for the first respondent/Railways and Mr.R.Thyagarajan, learned Senior Counsel accepts notice for the second respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner-Association that their members are mobile caterers for the Railways and they have been in business for the past several years. It is also the case of the petitioner-Association that the services of their members were suspended by the respondents due to the lock down imposed by the Government ever since March 2020. According to the petitioner-Association, till date, the services have not been restored, despite the fact that the other services of the Railways have been resumed. According to them, without resuming the services, which were suspended earlier by the respondents, the respondents, under the impugned tender, have called for bids from prospective bidders for catering services, which according to the petitioner, is arbitrary and illegal. In such circumstances, this Writ Petition has been filed.

4. Heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for Mr.T.N.C.Kaushik, learned counsel for the petitioner, Mr.P.T.Ramkumar, learned counsel appearing for the first respondent/Railways and Mr.R.Thyagarajan, learned Senior Counsel appearing for the second respondent.

5. At the outset, Mr.R.Thyagarajan, learned Senior Counsel representing the second respondent would submit that the impugned tender pertains to special trains only and does not relate to regular trains, for whom, the petitioner-Association

represents. For this submission, the learned Senior Counsel appearing for the petitioner would submit that, if that be so, there is no necessity to stop the tender, as it is not affecting the petitioner's interest. However, he would submit that when other services of the Railways have been resumed, the respondents have adopted a discriminatory attitude by not allowing the petitioner's services also to be resumed.

6. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner also drew the attention of this Court to the representation dated 04.01.2021 given by the petitioner-Association to the respondents calling upon them to resume the services of the members of the petitioner-Association, which were earlier suspended on account of the lock down. He would also highlight the difficulties faced by the members of the petitioner-Association due to the non-operation of their services ever since March 2020.

7. As seen from the representation dated 04.01.2021 given by the petitioner-Association, the petitioner-Association has expressed in detail the financial difficulties faced by their members on account of the suspension of their services by the respondents due to the lock down imposed by the Government. Admittedly, till date, the said representation has not been considered by the respondents.

8. Admittedly, in view of the lock down, several business establishments have faced financial crisis. The members of the petitioner-Association, who are operating mobile catering services for the Railways, also stand in the same footing. Therefore, the predicament of the petitioner-Association will have to be addressed expeditiously.

9. No prejudice will be caused to the respondents, if the representation of the petitioner dated 04.01.2021 seeking for resumption of the services of their members, is considered by the respondents on par with other services, after giving due consideration to the financial difficulties faced by the members of the petitioner-Association during the period of lock down.

10. Mr.R.Thyagarajan, learned Senior Counsel appearing on behalf of the second respondent, on instructions, would submit that the respondents are willing to consider the petitioner's representation dated 04.01.2021, once the regular train services are resumed. According to him, as on date, regular train services have not been resumed.

11. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner would further submit that the petitioner

should be given a fair hearing by the respondents while they consider the petitioner's representation seeking for resumption of the services of the members of the petitioner-Association, which were earlier suspended by the respondents due to lock down.

12. This Court is of the considered view that the request made by the learned Senior Counsel appearing for the petitioner seems to be fair, considering the difficulties faced by the members of the petitioner-Association.

13. For the foregoing reasons, no relief can be granted with regard to the challenge made to the impugned tender. However, this Court directs the first respondent to consider the representation of the petitioner-Association dated 04.01.2021 seeking for resumption of services of the members of the petitioner-Association on par with other services and pass final orders on merits and in accordance with law, after giving sufficient opportunity to the petitioner-association and its members to put forward their respective contentions, within a period of four weeks from the date of receipt of a copy of this order.

14. With the aforesaid direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

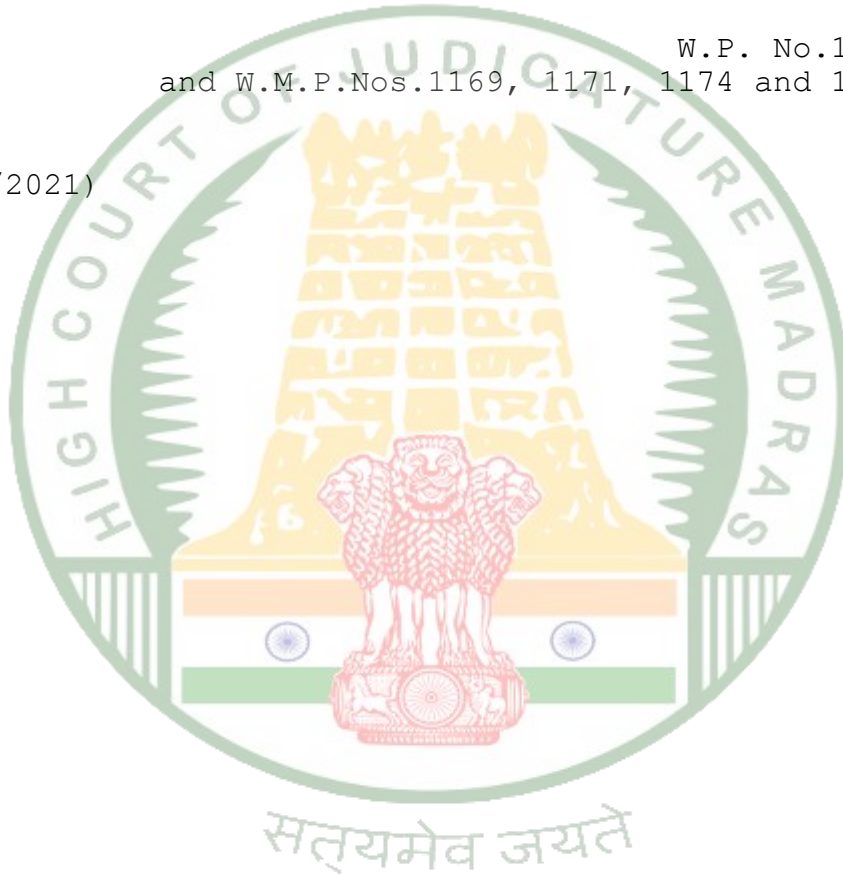
1. The Secretary,
Union of India,
Ministry of Railways,
Rail Bhawan,
New Delhi - 110 001.

2.The Chairman and Managing Directors,
Indian Railways Catering and Tourism
Corporation Limited (IRCTC),
Corporate Office at
11th and 12th Floor, Statesman House Building,
B-148, Barakhamba Road,
Connaught Place, New Delhi - 110 001

+1 cc to M/s.P.T.Ramkumar , Advocate Sr.No. 2689
+1 cc to M/s.V.G.Suresh kumar, Advocate Sr.No. 2961
+1 cc to M/s.T.N.C.Kaushik, Advocate Sr.No. 2458

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SSN(CO)
RMP(17/02/2021)



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