



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2021

Coram

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition No.18241 of 2021

and

W.M.P. Nos. 19478 & 19479 of 2021

M/s.Orion Ventures

Represented by its partner Mr.Antony Tharu

15/355Q, Opposite Post Office,

Tirur Road, Down Hill,

Mallapuram,

Kerala - 676 519

.. Petitioner

Versus

1.Southern Railway,

Represented by its General Manager

Park Town, Chennai - 600 003.

2.Southern Railway,

Represented by its Chief Mechanical Engineer

Park Town, Chennai - 600 003.

3.Office of the Coaching Depot Officer

Train Care Centre

Basin Bridge, Chennai - 600 003.

4.Union of India,

Ministry of Railways,

Railway Board,

Through its Secretary,

Rail Bhawan, New Delhi - 110 001

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent Nos.1 to 3 to extend the completion period of the subject contract for a duration that is co-equal to the period for which the Subject Contract remained suspended owing to the ongoing COVID-19 pandemic (i.e., from March, 2020) till date of normal resumption of rail services.

For Petitioner : Mr. R. Parthasarathy



O R D E R

The present writ petition has been filed by the petitioner seeking to issue a Writ of Mandamus directing the respondents 1 to 3, to extend the completion period of the contract awarded to the petitioner for a duration that is co-equal to the period for which the subject contract remained suspended owing to the ongoing COVID-19 pandemic (i.e., from March, 2020) till date of normal resumption of rail services.

2. The petitioner is a partnership firm, which was constituted exclusively to provide service to the respondents/railways in relation to mechanized laundry services, supply of freshly washed clean linen, more specifically for trains running from Chennai Central and Egmore Stations. As a part of the implementation of Build Own Operate Transfer contracts (BOOT) laundry projects, the second respondent issued a Tender Notice No.CME/HQ No.M/CW/271/ML dated 19.05.2010 inviting bids from persons for the turn key contract work of collecting soiled linen from AC coaches, washing in mechanized laundry, supply of fresh laundered linen to AC coaches at Madras. In response to the aforesaid Tender Notice, the petitioner firm submitted an offer letter dated 07.07.2010 with a final total cost of Rs.73,67,72,580/- (subject to PVC (Price Variation), service tax, work contract tax and other taxes) for 10 years. The second respondent accepted the offer letter submitted by the petitioner firm and issued a Letter of Acceptance dated 01.04.2011 bearing No.M/CW/271/ML. Thereafter, the second respondent entered into a Contract Agreement dated 17.05.2011 with the petitioner firm. The said Contract Agreement was amended from time to time, by way of Rider Agreement No.1 of 2013-14 dated 29.11.2013, Rider Agreement No.2/2017-18 dated 28.10.2017, Rider Agreement No.3/2018-19 dated 19.12.2018, Rider Agreement No.4/2018-19 dated 04.03.2019 and Rider Agreement No.5/2019-20 dated 21.08.2019.

3. While so, on 22.03.2020, the third respondent issued an order, in and by which, the operation of all the passenger train services were suspended due to the ongoing COVID-19 pandemic and the declaration of a nationwide lockdown, as a result of which, there was no requirement for clean linen to be supplied to trains and the operations of the petitioner's mechanized laundry has come to a grinding halt. Such suspension of work has caused the petitioner firm loss to the tune of Rs.3.37 Crores approximately in the form of maintenance of its infrastructure and payment of salary to employees.

4. According to the petitioner, the Ministry of Finance vide Office Memorandum No.F.18/4/2020-PPD dated 13.05.2020 had recognized the ongoing COVID-19 pandemic as a force majeure



situation and directed that the concession period in PPP contracts, ending on or after 20.02.2020 was to be extended by not less than three months and not more than six months. On the basis of such Office Memorandum, the petitioner firm approached the respondents and requested them to grant a formal extension of concession period for all contracts in the nature of Public Private Partnerships (PPP. However, the third respondent vide Notice dated 03.07.2020 bearing Ref.No.2017/EnHM/26/04 directed that payments to be made under the contracts for mechanized laundry even during the lockdown/restricted services period. Pursuant to the said Notice, the petitioner firm has been duly computed the amounts payable to it under the contract and routinely submitted its bills from time to time. While so, the third respondent vide letter dated 02.07.2021 informed the petitioner that a joint inspection would be conducted on or before 15.07.2021, for the purpose of making an inventory of machines, ancillary equipment, utilities, fixed assets for the taking over process and called upon the petitioner to nominate a representative from their firm for this purpose. Immediately, the petitioner made a representation dated 03.07.2021 to the first respondent, requesting to keep the unilateral decision of taking over the mechanized laundry plant in abeyance, however, there was no response, hence, the petitioner has come before this Court with the present writ petition.

5. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

6. Taking note of the facts and circumstances of the case and considering the limited prayer sought by the petitioner, the second respondent is directed to consider the petitioner's representation dated 03.07.2021 and pass appropriate orders on merits and in accordance with law, preferably, within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrr/rsh



To

1.The General Manager,
Southern Railway,
Park Town, Chennai - 600 003.

2.The Chief Mechanical Engineer,
Southern Railway,
Park Town, Chennai - 600 003.

3.Office of the Coaching Depot Officer,
Train Care Centre,
Basin Bridge, Chennai - 600 003.

4.The Secretary,
Ministry of Railways, Railway Board,
Rail Bhawan, New Delhi - 110 001.

+1cc to Mr.R.T.RamKumar, Advocate, S.R.No.44682

WP No. 18241 of 2021

PA (CO)
CB(27/09/2021)