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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11803 of 2014

and

M.P.Nos.1 and 2 of 2014

M/s.Media Solution,
Registered Proprietary Concern,
Rep. By its Chief Operation Manager,
Mr.Mohammad Omar Faiz,
S-95 Spencer Plaza,
3rd Phase, II Floor,
787/789, Anna Salai,
Chennai - 600 002.

... Petitioner

Vs.

Airport Authority of India,
Represented by its Director,
Chennai Airport, Meenambakkam,
Chennai - 600 027.

...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records of the respondent culminating in the impugned order dated 25.11.2013 bearing Ref.No.AAM/C.3033/2013/5151-56 and quash the same as illegal and contrary to principles of natural justice and consequently direct the respondent to refund the Bank Guarantee of Rs.16,04,859/- and Advance License Fee of Rs.3,97,193/-

For Petitioner :Mr.Akhil Akbar Alil

For Mr.J.Sivanandaraaj

For Respondent :M/s.S.R.Sumathy

O R D E R

The order impugned dated 25.11.2013 is termination of license under unsatisfactory performance.

2. Admittedly, the petitioner was granted comprehensive license for Retrieval, Security, Repair and Maintenance of 3500 Nos. Passenger Baggage Trolleys at the cost of the Licensee and



also offer License fee to Airport Authority of India against Advertisement Rights on such Trolleys at Chennai Airport.

3. In this regard, a license agreement was entered into between the Airport Authority of India and the writ petitioner. The terms and conditions are also stipulated and agreed between the parties. Based on the unsatisfactory performance, the Airports Authority of India terminated the license and the petitioner has chosen to file the present writ petition.

4. Though the petitioners have raised several grounds including the ground stating that no opportunity was given to the petitioner, this Court is of the considered opinion that such contractual obligations cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. When the parties are agreed certain duties and responsibilities through the license agreement, then the non performance or termination of agreement based on the terms and conditions require an elaborate adjudication of facts and circumstances with reference to the documents and evidences. Such an adjudication cannot be undertaken in a writ proceedings. Question of issuance of notice in contractual obligations made arise only certain circumstances, where there are agreements between the parties. The statutory performance of the public authorities cannot be compared with the invocation of terms and conditions of the contract by the authorities of the State. Thus, the contractual obligations cannot be compared with the statutory functions of the State or Union Organizations. The petitioner claims that the Airports Authority of India is a 'State' and therefore, the writ petition is maintainable. It is not the question of the maintainability, which needs to be considered in the present writ petition, but the entertainability, which is to be considered. When the parties raise grounds with reference to the contractual obligations, then an adjudication becomes necessary and such an adjudication must be done with reference to the documents and evidences, if necessary, through oral evidences.

5. This being the facts and circumstances, the petitioner is at liberty to approach the competent Court of Law for the purpose of adjudication of the issues in order to redress his grievances. In the event of filing any such proceedings before the competent Court, the Court may consider the period during which the writ petition was pending before this Court for the purpose of condoning the delay, if any such petition to condone the delay is filed.



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6. With these observations, the writ petition stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To
The Director,
Airport Authority of India,
Chennai Airport, Meenambakkam,
Chennai - 600 027.

+1 cc to Mr.J.Sivanandaraaj, Advocate Sr.NO. 66471
W.P.No.11803 of 2014

KG(CO)
A.SK(27.12.2021)