



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7978 of 2016
and
W.M.P.No.7104 of 2016

M/s.Areno Catering
Represented by its Partner, K.P.Shafique,
Babu Complex, Treasury Building,
Feroke,
Calicut 673 631.
Sate of Kerala.

...Petitioner

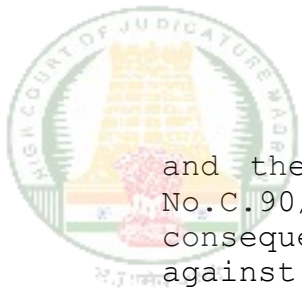
Vs

1. Southern Railway,
Represented by its Chief Commercial Manager,
Catering and Passenger Service,
Commercial Branch,
Chennai 600 003.
2. The Deputy Chief Commercial Manager,
Catering and Passenger Service,
Passenger Service II,
Southern Railway, Commercial Branch,
Chennai 600 003.
3. Indian Railway Catering & Tourism
Corporation Ltd., (IRCTC)
6A, The Rain Tree Place,
No.9, MC Nicholas Road,
Chennai - 31.

... Respondents

[R3 impleaded vide order dated 20.09.2021 made in WMP No.5098 of 2020 in WP No.7978 of 2016 by SMSJ]

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in No.C.86/Pc/12675-76/Kovai Express/2014 dated 25.08.2015, No.C.86/PC/12675-76/Kovai Express/2014 dated 10.12.2015 and No.C.90/INSPN/PC/Reports/ Arenco dated 08.02.2016



and the final notice (10 in numbers) dated 22.2.2016 bearing No.C.90/INSPN/PC/Reports/Arenco and quash the same and consequently forbear the respondents from taking any action against the petitioner in respect of catering services of the petitioner for non payment of amounts demanded in the said proceedings or any other fine/penalty imposed by the respondents.

For Petitioner : Mr.AL.Ganthimathi

For Respondents : Mr.P.T.Ramkumar (for R1 and R2)
Standing counsel for Railways

Mr.V.G.SureshKumar (for R3)

ORDER

The impugned order dated 08.02.2016 is a notice relating to non payment of fine amount imposed on account of inspections and complaints.

2. The petitioner was a catering service company and entered into a contract with the Southern Railway to run the catering services in railways.

3. There are certain disputes and based on the complaints, certain actions were initiated by the Southern Railways. The learned counsel for the petitioner states that the impugned notice has been issued without any opportunity and therefore, it is in violation of principles of natural justice.

4. By merely stating that there is a violation of principles of natural justice, a writ proceedings cannot be entertained, in view of the fact that it is contractual obligation and admittedly, there is an arbitration clause in the agreement. Further, such disputed issues relating to catering services in Southern Railways, based on the terms and conditions of the contract, cannot be adjudicated in the writ proceedings, under Article 226 of the Constitution of India. Such an adjudication is to be done based on the original documents and evidences to be produced by the respective parties to the dispute.

5. Therefore, the petitioner ought to have invoked the arbitration clause, for the purpose of resolving the issues. In view of the fact that this Court cannot make a finding in respect of such disputed issues, it is left open to the writ petitioner to invoke the arbitration clause, for the purpose of resolving the disputes between the parties.



6. Accordingly, the petitioner is at liberty to invoke the arbitration clause, within a period of four weeks from the date of receipt of a copy of this order. Till the expiry of four weeks, the respondents are directed not to initiate any coercive steps against the writ petitioner.

7. With this liberty, the Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. Chief Commercial Manager,
Southern Railway,
Catering and Passenger Service,
Commercial Branch,
Chennai 600 003.
2. The Deputy Chief Commercial Manager,
Catering and Passenger Service,
Passenger Service II,
Southern Railway, Commercial Branch,
Chennai 600 003.
3. Indian Railway Catering & Tourism
Corporation Ltd., (IRCTC)
6A, The Rain Tree Place,
No.9, MC Nicholas Road,
Chennai - 31.

+1CC to Mr.P.T.Ramkumar, Advocate, Sr.No.52335
+1CC to Mr.V.G.Sureshkumar, Advocate, Sr.No.52587
+1CC to M/s.AL.Ganthimathi, Advocate, Sr.No.52575

W.P.No.7978 of 2016

PL (CO)
K.RK. (01.11.2021)