



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD) .No.3216 of 2021

and

W.M.P. (MD) .Nos.2544 and 2545 of 2021

M/s. Vasantham Catering,
Represented by its Proprietor,
M.Mohammed Akbar

...Petitioner

Vs.

1. The General Manager /MCS,
IRCTC Corporate Office, New Delhi.
2. The Group General Manager,
IRCTC, South Zone,
6A, The Rain Tree Place,
No.9, Mc.Nichols Road, Chetpet,
Chennai-670 031.

.. Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent herein dated 10.02.2021 in No.2020/IRCTC/Catg. MCS/02621-22 and quash the same.

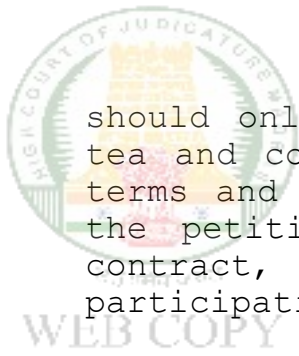
For Petitioner	: Mr.ARL.Sunderasan Senior Counsel for M/s.AL.Gandhimathi
For Respondents	: Mr.S.Manohar Standing Counsel For R1,R2.

ORDER

The present Writ Petition has been filed challenging the proceedings of the first respondent, dated 10.02.2021, wherein, the first respondent has terminated the contract issued in favour of the petitioner and has debarred the petitioner from participating in the future tender for a period of six months.

2. The petitioner is carrying on the catering service business. The respondents called for an E-Tender for on-board catering services and the petitioner also made an application and he was awarded a temporary licence for a period of ninety days by a letter, dated 25.11.2020. The petitioner paid a licence fee of Rs.63,006/- (Rupees Sixty Thousand and Six only) for each round trip along with the GST and in total a sum of Rs.74,347/- (Rupees Seventy Four Thousand Three Hundred and Forty Seven only)

3. The terms and conditions provided that the petitioner



should only sell the pre-packed approved / branded items and also tea and coffee. The cooked meal was completely prohibited by the terms and conditions of contract. It was also made clear that if the petitioner violated any of the terms and conditions of the contract, the licence will be terminated and will be barred from participating in the future tender.

4. The petitioner was making repeated representations to the first respondent to the effect that the demand for the pre-packed food was very poor and the passengers are demanding for cooked food. It was also submitted that the passengers are buying cooked food of their choice from the enroute catering units / stalls and they eat those items in the trains. Therefore, the petitioner requested that either they must be permitted to sell cooked food or must be permitted to exit from the contract. The petitioner was also expressing regret for the manner, in which, the inspecting officials were imposing hefty fines based on the complaint made by the passengers and the quality of the food sold in the train.

5. The petitioner received a show cause notice, dated 28.01.2021 from the first respondent on the ground that the petitioner is selling unapproved food and cooked food on-board the train and as to why, action should not be taken against him as per the terms and conditions.

6. The petitioner, on receipt of the show cause notice, from the first respondent issued a reply, dated 29.01.2021, by reiterating the same stand that was taken in the representations made to the respondents. The first respondent, on receipt of the reply, proceeded to pass the impugned order dated 10.02.2021, which has been made a subject matter of challenge in this Writ Petition.

7. Heard Mr.AR.L.Sundaresan, learned Senior Counsel representing Ms.ALGandhimathi, learned counsel appearing on behalf of the petitioner and Mr.S.Manohar, learned Standing Counsel appearing on behalf of the respondents.

8. The respondents have filed a counter affidavit in this case. Paragraph No.8 of the counter affidavit is extracted hereunder:-

"8. It is submitted that the petitioner has not paid entire license fees on 07.12.2020 as stated. The petitioner was required to pay the license fee within a period of two days from the date of issue of letter of award. But the petitioner did not pay the license fee within stipulated time and sought time to pay the license fee in instalments. The respondent considered the said request sympathetically and was permitted to remit license fees in two equal instalments; first



respondents that there is no demand for the pre-packed food and the passengers are buying cooked food from the enroute catering units / stalls and eating it in the train. The petitioner was, therefore, requesting to be relieved from the contract or at least, to be permitted to sell the cooked food to the passengers. The respondents should have acted upon these representations and could have relieved the petitioner. Instead, the respondents have chosen to conduct an enquiry and impose a punishment.

11. There is absolutely no reference in the impugned order, dated 10.02.2021 about any reports received from any authority. However, in the counter affidavit, there is a mention about inspection reports relied upon by the first respondent. A copy of these reports were not furnished to the petitioner and the same has been put against the petitioner. That apart, the petitioner has given a detailed reply for the show cause notice. The first respondent has not considered any of the explanation given by the petitioner and has straight away come to the conclusion that the petitioner has indulged in the sale of cooked food.

12. The impugned order passed by the first respondent is bereft of any reasons and it has been passed by relying upon some inspection reports, which were not furnished to the petitioner. Hence, the impugned order passed by the first respondent requires interference of this Court.

13. In the result, the impugned order passed by the first respondent, dated 10.02.2021 is hereby quashed. If the petitioner has any claim for refund of licence fee, the same has to be prosecuted independently and the same will be considered by the respondents.

14. The Writ Petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



+1 CC to M/s.S.MANOVAR, Advocate (SR-16439[F] dated
19/04/2021)

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-16446[F] dated
19/04/2021)

Order made in
W.P. (MD) .No.3216 of 2021
Dated:

17.04.2021

RK(11.05.2021) 5P 3C