



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

WEB COPY

W.A. [MD]No.897 of 2020

1.The Senior Divisional Commercial Manager,
Divisional Office, Southern Railway,
Commercial Branch,
Chennai - 600 003.

2.The Divisional Railway Manager,
Southern Railway,
Chennai Division,
Chennai - 600 003.

: Appellants

Vs.

S.Nagarajan

: Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 26.02.2020 made in W.P.[MD]No.1575 of 2020, on the file of this Hon'ble Court and allow this Writ Appeal.

Prayer in WP(MD). 1575/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court call for the records on the file of the 1st respondent in his proceedings in Ref.No.M/C 79/SMU-4/MAS dated 16.11.2019, in respect the catering stall SMU-4/MAS on plat form No.2A and 3 at Chennai central Railway Junction and quash the same as illegal and further direct the respondent to forthwith renew the license for a further period of 3 years for the catering stall SMU-4/MAS at Platform NO.2A and 3 in Chennai Central Railway Junction and consequential orders.

For Appellants : Mr.V.Radhakrishnan,
Senior Counsel
for Mr.S.Manohar

For Respondent : Mr.V.Raghavachari
for Mr.S.Ramesh

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

By consent of both parties, the appeal itself is taken up

for final disposal.



2. Heard Mr.V.Radhakrishnan, learned Senior Counsel for Mr.S.Manohar, learned Counsel appearing for the appellants and Mr.V.Raghavachari, learned counsel for Mr.S.Ramesh, learned Counsel appearing for the respondent.

3. The Writ Petition was filed by the respondents seeking for Writ of Certiorari to quash the proceedings dated 16.11.2019, in respect of catering stall in Platform Nos.2A & 3 of Chennai, Central Railway Station, presently known as Puratchi Thalaivar MGR Central Station and forthwith renew the license for a further period of three years.

4. At the very outset, we have to point out that the writ petition filed before the Madurai Bench is not maintainable. This is so because, no part of the cause of action arises before the jurisdiction of this Court. Merely because the writ petitioner was residing in Madurai, that cannot be a reason to entertain the writ petition in the Madurai Bench, since the license for which renewal was sought for is in Chennai and the authorities who passed the impugned orders are also at Chennai and the writ petitioner wanted to carry on the business activities by obtaining renewal of license at Chennai. Therefore, the Writ Petition was liable to be dismissed on the said ground.

5. So far as the legal issue is concerned, we need not labour much to decide the controversy, since the order relied on for allowing the writ petition, in W.P.[MD]No.2331 of 2018 dated 06.09.2018 has been reversed by the Hon'ble First Bench of this Court in W.A.[MD]No.1566 of 2018 dated 16.10.2020. The operative portion of the judgment reads as follows:

"11. It is, therefore, evident that the tenure of the licence does not result in any automatic renewal and it is the discretion of the Railways and correspondingly, the policy containing the terms and conditions openly declares that renewal will not be a matter of right. The respondent - petitioner was therefore bound by the same.

12. We find that the learned Single Judge has completely overlooked these provisions contained in the terms and conditions governing the licence that was granted to the respondent - writ petitioner, even assuming for the sake of argument that the Policy of 2010 continued to be applicable on the facts of the present case.



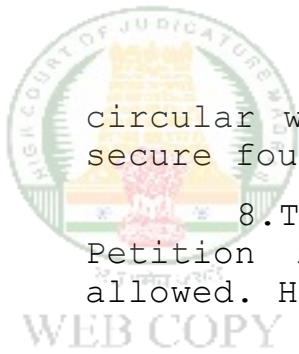
13. Apart from this, it cannot be lost sight of that if the Catering Policy of 2017, through Commercial Circular No.20 of 2017, has discontinued the practice of any renewal of licence, then, in that event, it may not be permissible for this Court to give a direction for renewal of a licence which even otherwise is not a matter of right as concluded hereinabove.

14. Therefore, there is no vested right as rightly contended by the learned counsel for the appellant - Railways to seek renewal and hence, we find that the impugned Judgment dated 06.09.2018 is legally unsustainable.

15. Accordingly, the writ appeal is allowed and the Judgment, dated 06.09.2018 in W.P.(MD) No.2331 of 2018, is set aside. No costs. Consequently, connected miscellaneous petition is closed."

6. Furthermore, we note that there is a change in the catering policy and as on date, the case as projected by the respondent / writ petitioner cannot be sustained. In fact, in W.P.[MD]No.2331 of 2018, the contention of the Southern Railway that the 2017 catering policy cannot be implemented on account of it being superseded by 2010 catering policy was rejected by the learned Single Bench. However, the said order was found to be not sustainable and reversed by the Hon'ble First Bench as above mentioned. However, the writ petitioner seeks for grant of license and there is no vested right for the writ petitioner to seek for renewal of license as the very grant itself is covered by the policy formulated by the Railway Board. Even assuming that there is a provision for renewal of the license in the policy, that by itself will not give a vested right because every renewal amounts to a fresh grant and still, there is a discussion with the licensor to decide as to whether such renewal should be granted or not.

7. In any event, the relief sought for in the writ petition could not have been granted. In fact when this Writ Appeal was entertained, the learned Division Bench had granted an order of stay on 06.10.2020 and rightly took note of the decision of the Hon'ble Supreme Court in the case of **Senior Divisional Commercial Manager, South Chennai Railways and others v. S.C.R. Caterers, Dry Fruits, Fruit Juice stalls Welfare Association and another** reported in (2016) 3 SCC 582, wherein it has been held that renewal of license for persons who have got only one license, a



circular was issued. However, the writ petitioner has managed to secure four licenses, which is a question mark.

8. Thus, for the above reasons, the order passed in the Writ Petition is not sustainable. Accordingly, the Writ Appeal is allowed. However there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MR

To

1. The Senior Divisional Commercial Manager,
Divisional Office, Southern Railway,
Commercial Branch,
Chennai - 600 003.

2. The Divisional Railway Manager,
Southern Railway,
Chennai Division,
Chennai - 600 003.

+1 CC to M/s.S.MANO HAR, Advocate (SR-20661[F] dated 30/06/2021)

+1 CC to M/s.V.RAGAVACHARI, Advocate (SR-20790[F] dated
01/07/2021)

JUDGMENT MADE IN
W.A. [MD]No.897 of 2020

30.06.2021

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