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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 02.06.2021

+ W.P.(C) 5722/2021 & CM APPL.17911-12/2021

RAILWAY PLATFORM TEA STALL TENDERED LICENSEE
PROGRESSIVE WELFARE SOCIETY Petitioner

versus

UNION OF INDIA

.....Respondent

Advocates who appeared in this case:

For the Petitioner:

Ms. Suruchi Aggarwal, Senior Advocate with Mr. Akshat Bajpai and Mr. Ishanee Sharma, Advocates.

For the Respondent:

Mr. Jagjit Singh, Senior Counsel for Railways with Mr. Preet Singh and Mr. Vipin Chaudhary, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns the letter dated 01.06.2020 issued by the Director (Tourism & Catering) Railway Board, Ministry of Railways, Government of India.
3. Learned senior counsel for the petitioner submits that though this policy mandates that any change or modification to the Master License Agreement is to be done only with the written consent of all the parties, the

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to HMJ Sanjeev Sachdeva.

W.P(C) 5722/2021

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Zonal office has unilaterally modified the terms.

4. Learned senior counsel further submits that the agreement provides that the license fee would be calculated on turnover basis whereas the impugned policy directs that volume of passenger traffic in respect of individual stations/platforms shall be taken into consideration while modifying the license fee.

5. Learned senior counsel further submits that some of the zonal offices of the Indian Railways have treated the entire period as *dies non* whereas some of the zonal offices are granting concession on the basis of passenger footfall and ignoring the turnover and also without mutual consent of minor static units. She submits that there is also variation in the manner and period for which the policy is being implemented by various zonal offices.

6. Learned senior counsel submits that the policy needs to be re-examined particularly in view of the manner in which different zones *inter alia* Hyderabad division are interpreting and implementing the policy.

7. Learned counsel appearing for the respondent on advance notice raises a preliminary objection with regard to the maintainability of the petition on the ground that the petition seeks to impugn a policy decision and also on the ground of lack of territorial jurisdiction, non joinder of necessary parties and absence of locus of the petitioner.

8. Since the contention of learned senior counsel for the petitioner is that different Zonal Offices of the Indian Railways are interpreting and implementing the policy differently, it may be appropriate for the

competent authority i.e. Director (Tourism & Catering) Railway Board, Ministry of Railways, Government of India, to examine the contentions raised by the petitioner in this petition as well as the material placed herein as a representation and take a view in the matter.

9. In view of the above, this petition is disposed of with a direction to the competent authority i.e. Director (Tourism & Catering) Railway Board, Ministry of Railways, Government of India, to treat this petition as a representation and dispose of the same preferably within a period of four weeks from today.

10. It is, however, clarified that this order shall not amount to expression of opinion on the objection raised by the respondent with regard to the maintainability of the petition.

11. Petition is disposed of in the above terms.

12. All rights and contentions of parties are reserved.

13. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J.

JUNE 02, 2021/rk