

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 7813 of 2022

Pancham Kumar Singh

-vs.-

Union of India & Ors.

Mr. Debrup Bhattacharjee,
Ms. Saptamita Pramanick
...for the petitioner

Mr. Billwadal Bhattacharyya, ASG
Mr. Arijit Majumder
...for the Union of India

Learned counsel appearing for the petitioner contends that despite subsistence of an agreement, which is valid till March 06, 2024, the Railway-Authorities have floated a new tender, assigning the rights conferred on the petitioner pursuant to such agreement to the proposed bidders.

It is contended, by placing reliance on the relevant clauses of the agreement, which is operative from March 07, 2019 to March 06, 2024, that the same gave certain specific rights to the petitioner in respect of SLRs. It is seen from the tender, particularly from Serial No. 8 at page 89 of the writ petition, that the said tender covers the train, that is, Kalka Mail (now known as Netaji Express), bearing Train No. 12311 Up, as

such, allegedly affecting the rights of the petitioner as he is an existing leaseholder.

However, learned counsel appearing for the respondent-Railway authorities points out from Clause 5.2 (at page 59 of the writ petition) of the tender notice that sub-clause (ii) thereof specifically indicates that the service provider has to accommodate existing leaseholders till validity of their contract with Railways subject to their willingness, in lieu of which the service provider will collect fee from the existing leaseholders not more than license fee being paid to Railways by leaseholders. As such, it is argued, the existing right of the petitioner as a leaseholder shall not be affected in any manner by the proposed tender.

Upon hearing learned counsel appearing for the parties, a bare perusal of Clause 5.2(ii) of the tender notice clearly shows that the existing leaseholders, which is the present status of the writ petitioner, shall be accommodated till validity of their contract, subject to the willingness of the existing leaseholders, in lieu of which the service provider will collect fee from the said leaseholder of not more than license fee to be paid to Railways by leaseholders.

As such, the service provider in whose favour the successful tender will go, merely operates as an agent by virtue of the contract entered into with it by the Railways for the limited purpose of asserting the rights

of the Railways for collection of fees from the existing leaseholders, that too, in consonance with the license fee payable to the Railways by the leaseholders.

Since it is clear from the said clause that neither the rights of the writ petitioner in the capacity of an existing leaseholder nor the liabilities of the Railway-authorities vis-à-vis the petitioner in respect of the agreement with the petitioner are affected, there is no scope of any legal, contractual or constitutional right of the petitioner being violated.

In the light of the above observations, W.P.A. No. 7813 of 2022 is disposed of without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)