

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

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WRIT PETITION NO. 444 OF 2022

M/s Shiv & Sons,
Through Its Proprietor :Shivbhushan Pandey ..Petitioner
versus

Central Railway, Commercial Branch, Nagpur. ..Respondents

Mr.Akshat Bajpai, Advocate for Petitioner
Mr.N.P.Lambat, Advocate for Respondent

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CORAM: NITIN JAMDAR &
ANIL L. PANSARE,JJ
DATED : 13 APRIL 2022.

P.C. :

Heard the learned Counsel for the parties.

2. The Petitioner had submitted a bid for a catering stall (general minor unit) at Nagpur Railway Station at Platform Nos. 2/3 Itarsi end, for a period of five years and the bid was accepted. The same was communicated to the Petitioner on 8 March 2021. The Petitioner had to pay a license fees of ₹ 66,57,000 and security deposit of ₹10,38,490. The Petitioner after second Corona pandemic, had sought for relaxation in license fees. The Petitioner also pointed out that one Hira Agency which was granted license for catering stall, was granted relaxation.

3. The Petitioner has challenged the circular dated 14 July 2021 issued by the Railway Board, Ministry of Railways, stipulating the cut off date as 23 March 2020 for relaxation in payment of license fees. The Petitioner further sought a direction that Petitioner who had submitted the bid post 23 March 2020, be granted similar relaxation. Since the request is not accepted, the Petitioner is before the Court.

4. The impugned circular issued by the Railway Board states that those who have submitted their bids prior to 23 March 2020 would be considered for relaxation and not those after. Petitioner's bid was post that date and the Petitioner has not been given relaxation.

5. As regards the contention of parity is concerned, the affidavit-in-reply and additional affidavit have been filed by the Respondent-Railways and it is an admitted position before us that the five licensees whose names the Petitioner had stated, had submitted their bids prior to cut off date of 23 March 2020. Therefore, the argument of parity does not survive.

6. Petitioner's second challenge is to the cut off date of 23 March 2020. The document in which such cut off date is stipulated is a policy as to whom the Railways would grant relaxation in payment of license fees. In the reply-affidavit and during the course

of arguments, it is pointed out by the Respondent-Railways that 23 March 2020 is taken as the date when the first lockdown pursuant to the Corona pandemic was imposed in various parts of the country and before that the people were not aware of the magnitude of the pandemic and it is those licensees/applicants who had applied prior to the magnitude of the Corona pandemic was known, were granted relaxation and not those who were aware of the implications and the magnitude of the pandemic, such as the Petitioner, who had submitted the bid some time in January 2021. We find this rationale is a possible view. This stipulation cannot be considered as entirely arbitrary or perverse or defying logic. The interference of the Court in policy decision, especially of granting relaxation in payment that is at the cost of public exchequer, is extremely limited.

7. The argument of 'legitimate expectation' of the Petitioner is concerned, there is no such specific legitimate expectation. Those contracts prior to 23 March 2020 stand on different footing, when the magnitude was not known and after the pandemic there is no such express promise that even after the magnitude of the pandemic is known further relaxation for all future bidders would be granted. Furthermore, the Respondent has pointed out that it is not that relaxation has been completely denied. Even though the Petitioner falls on the other side of the cut off date, the Petitioner has been allotted, in addition to catering stall, a platform vending for which the Petitioner had paid additional fees. Grant of

platform vending rights is generally it is through public participation, yet a deviation is made for the Petitioner out of indulgence. The Petitioner has taken the benefit of this indulgence. Moreover, the Petitioner has also been granted liberty of two installments instead of one installment. Therefore the Petitioner is not prejudiced.

8. Considering all these aspects, no further relief can be granted in favour of the Petitioner.

9. The Writ Petition is rejected.

[ANIL L. PANSARE,J.]

[NITIN JAMDAR,J.]

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