



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5616 of 2022
and WMP Nos.5710 and 5712 of 2022

S.Rabik Raja

... Petitioner

Versus

The Senior Divisional Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railways,
Park Town, Chennai - 600 003

... Respondent

Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the impugned order in M/C.79/GMU-03/MS dated 24.01.2022 on the file of the respondent and quash the same and further directing the respondent to permit the petitioner to run the A1 category catering stall in Platform No.5/6 at Chennai Egmore Junction along with platform vending by paying pro rata license fee of 54% by considering his representation dated 22.02.2022.

For Petitioner : Mr.C.Karthik

For Respondent : Ms.Arthi

ORDER

This writ petition has been filed challenging the order dated 24.01.2022 calling upon the petitioner to pay 100% licence fee from 15.11.2021. The petitioner has challenged the impugned order on the ground that in respect of other commercial branches of Southern Railways including Thiruchirapalli and Madurai, the license holders were permitted to pay only pro rata license fee for the COVID-19 pandemic period. According to the learned counsel for the petitioner, the license holders of Chennai Division alone have been directed to pay 100% of the license fee which amounts to discrimination and is violative of Article 14 of the Constitution of India.

2. It is contended by the learned counsel for the petitioner that though the respondent very well knows that



during the period, for which, the license fee has been demanded under the impugned order, the foot fall of passengers travelling through trains was drastically less, but, according to the petitioner, despite the said fact, the petitioner has been directed to pay 100% of the license fee from 15.11.2021.

3. A counter affidavit has been filed by the respondent in this writ petition and in paragraph Nos.4 and 5, they have admitted the difficult conditions faced by the license holders during the Government imposed lockdown. In paragraph No.5 of the counter affidavit, the respondent has stated that they have decided to collect license fee on foot fall basis upto 31.03.2022 and therefore, they have stated that they will consider the petitioner's representation seeking for reduction in license fee.

4. In view of the subsequent development, which is recorded in the counter affidavit filed by the respondent, the impugned order passed by the respondent has to be necessarily quashed and the matter remanded back to the respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing.

5. The petitioner, prior to the filing of the writ petition, had given a representation to the respondent, requesting the respondent to consider payment of the license fee by him at 54% instead of 100%. In view of the subsequent development, the respondent has to now consider the said representation afresh on merits and in accordance with law after affording a fair hearing to the petitioner.

6. For the foregoing reasons, the impugned order dated 24.01.2022 passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing and the respondent shall pass final orders within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar



To

The Senior Divisional Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railways,
Park Town, Chennai - 600 003.

+2ccs to Mr.C.Karthik, Advocate SR. No. 36071

+1cc to M/s.S.P.Arthi, Advocate SR. No. 35710

W.P.No.5616 of 2022

SR (CO)

PR (27/06/2022)