



W.P(MD)No.23451 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23451 of 2022

and

W.M.P(MD)Nos.17534 & 17535 of 2022

S.Rabik Raja

..Petitioner

Vs

The Senior Divisional Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railways,
Madurai Division,
Madurai.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in No.U/C 79/Catg Stall/TEN/PF 2 & 3 dated 06.10.2022 on the file of the respondent and quash the same and further directing the respondent to accept a sum of Rs.3,00,000/- from the petitioner and thereby grant time to the petitioner to pay the remaining annual license fee for catering Stall in Platform 2/3 of Tirunelveli Railway Junction to the tune of Rs.2,85,998/- on or before 31.12.2022 by considering the representation of the petitioner dated 03.10.2022.

For Petitioner :Mr.K.Jeyamohan

For Respondent :Mrs.L.Victoria Gowri

Assistant Solicitor General



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delayed payment would attract interest and the Respondent has the right to terminate the license if the license fee is not paid on time. The said agreement was made in accordance with the Catering Policy 2017. Subsequently, the petitioner was permitted to run platform vending in respect of the above said stall on payment of additional license fee. The said license would expire on 01.08.2023. Accordingly, the petitioner was paying the annual license fee of Rs.5,55,556/- regularly in all these years. For the year 2022-2023 he has to pay the license fee for the catering stall as well as for the platform vending on or before 31.05.2022. Due to the lockdown, the stall was completely shut down for several months in the year 2020-2021. After the normalcy, he could not proceed further due to severe health complications and was admitted in the hospital. Hence, the petitioner requested the respondent to give him some time to pay the license fee for the catering stall as well as the other fee. The same was not considered by the respondent and their intention is not to evade from paying the license fee. His only grievance is that to provide some time to pay the license fee. However, the respondent refused to accept the money and thereafter, he sent a representation to the respondent on 03.10.2022. Though the respondent received the same, they did not consider his representation. While so, he was shocked to know that the respondent by communication, dated 06.10.2022 has called him to pay the entire license fee to the tune of Rs.



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5,85,998/- within a period of 7 days. Challenging the same, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner further submitted that reasonable time to be given to the petitioner and the said amount was not paid in time due to the lockdown. Now, the petitioner is ready and willing to pay a sum of Rs.3,00,000/- on or before 20.10.2022 and the remaining amount will be paid on or before 30.12.2022 along with 18% interest.

4. The respondent filed counter affidavit and in the counter affidavit it is stated that as per the terms and conditions of the tender and contractual agreement, dated 26.03.2019 executed between the petitioner and the respondent, the petitioner has to pay annual license fee regularly. The license fee shall be payable 15 days in advance prior to the commencement of each year of the license. Any delay in payment of LF shall attract interest at 18% per annum calculated for the number of days of default. Railway reserves the right to terminate the license in case the licensee fail to make payment within 90 days of due date. The is aware of the concession for paying part payment seeking some more time.



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5. The learned Additional Solicitor General appearing for the respondent would submit that there is no discretionary power vested with the respondent to permit part payment or installment payment of licence fee. The bid documents/tender conditions etc., had been formulated as per the guidelines of Railway Board, Ministry of Railways, New Delhi and prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and the learned Assistant Solicitor General appearing for the respondents.

7. The respondent has produced the proceedings of the Assistant Commercial Manager/Sr.Divisional Commercial Manager, Southern Railway, Madurai dated 15.06.2022 addressed to petitioner for payment of license fee and additional license fee (PF Vending) for running of catering stall at Tirunelveli Railway Junction, wherein he asked for part payment and the same has to be paid with 18% GST.

8. Considering the above said averments made in the affidavit, the petitioner could not paid the money for shutting down of entire railway due to the COVID-19, this Court directs the petitioner to pay a sum of Rs.3,00,000/-



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(Rupees Three Lakhs only) to the respondent on or before 20.10.2022 and the respondent is also directed to accept the same and the remaining amount whatever to be paid by the petitioner shall be paid on or before 30.12.2022 along with 18% interest.

9. Accordingly, the impugned proceedings in No.U/C 79/Catg Stall/TEN/PF 2 and 2 dated 06.10.2022 is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes/No

Internet :Yes/No
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17.10.2022

Note: Issue Order copy on 18.10.2022

To

The Senior Divisional Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railways,
Madurai Division,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

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