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W.P.No.9417 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.9417 of 2022

V.Jeevanatham

... Petitioner

Vs

1.The Divisional Railways Manager (DRM / MAS)
O/o.Divisional Railway Manager
Commercial Complex
Southern Railway Head Office
Chennai- 600 003.

2.The Chief Commercial Manager,
O/o. Chief Commercial Manager,
Southern Railway Head Office,
Chennai- 600 003.

3.The Senior Divisional Commercial Manager,
O/o. Senior Divisional Commercial Manager,
Southern Railway Head Office,
Park Town, Chennai- 600 003.

4.The Commander of Force
The Railway Protection Force
Central Unit, Part Town,
Chennai- 600 003.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing respondents 1 to 4 to allow the Petitioner inside the Railway parcel office to carry on business of consignments based on the representation dated 11.06.2021.



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For the Petitioner : Mr.D.Ashok Kumar
For the Respondents : Mr.K.S.Jeya Ganeshan, (SPC)
for respondents 1 to 3

ORDER

The writ petition has been filed in the nature of a Mandamus seeking a direction against the respondents 1 to 4 to permit the petitioner to go inside the Railway Parcel office to carry on business of consignments based on a representation dated 11.06.2021.

2. In the affidavit filed by the petitioner herein, he had stated that he was working in a private parcel service namely APS Train Cargo Movers at Wall Tax Road, Chennai. He also individually booked parcels containing perishable goods to Kerala through Southern Railway.

3. He stated that on 13.05.2021, when he entered into the Railway Parcel Office premises to book ten parcels of perishable consignments, the Railway Protection Force personnel intercepted him and informed him that an order preventing his entry into the Parcel Office Premises had been passed and therefore he was not allowed to so book the perishable consignment.

4. In this connection, he had sent a representation seeking a



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Mandamus to examine that particular representation, the present writ petition has been filed.

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5. The petitioner also stated that an order was communicated to him through Whatsapp wherein it was informed that his identity card must be seized by the railway protection force personnel at the gate.

6. The learned counsel stated that without assigning any reason, the respondents had taken that drastic step. It was also stated that there was some enmity between the Railways on the one hand and the parcel company where the petitioner worked namely APS Train Cargo Movers and that the petitioner has been made a scape goat.

7. Notice had been directed to the respondents and Mr. A.S. Jaya Ganesan, Leaned Senior Panel Counsel had entered appearance and had also filed a counter.

8. In the counter affidavit, it had been stated that on 26.06.2020, the petitioner herein had broken the seal of the cargo coach of Train No 00653 which runs between Chennai Central and



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Ernakulam Junction. The petitioner unloaded publication books namely Kumudham and other media parcels which were already loaded by the media staff. After unloading the said parcels, the petitioner had loaded the packages which he had individually booked in the said cargo coach. This was found out and the petitioner was arrested and Crime No. 867 of 2020 had been registered under Sections 145 (b) and 146 © of the Railways Act, 1989. The petitioner was also taken into custody and produced before the Metropolitan Magistrate at Chennai on 15.07.2020 and was released on bail.

9. It had been stated that it was under those circumstances that a decision had been taken to restrict the petitioner from entering into the parcel office.

10. These facts had not been stated by the petitioner in the affidavit filed by him. He had been arrested. He had furnished bond and he had been released on bail. He should have stated all those facts in the affidavit filed before this court. Unfortunately the petitioner, for some reason, had taken a decision not to disclose all those facts. The petitioner should realise that judicial proceedings, are based only on facts and if there is screening of facts they will



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always be brought out by the other side. It would have been appropriate had the petitioner himself voluntarily stated these facts. The documents relating to the said arrest and release on bond had also been produced by the learned Senior Panel Counsel on behalf of the respondent herein. It is therefore evident that the restriction was only on public interest.

11. It is also further pointed out that the identity card which had been issued to the petitioner herein had expired on 31.03.2022. The petitioner must first clear up his name and concentrate on the criminal case which had been filed on him. If he secures an order of acquittal, then he can urge before the respondents to grant him permission and give him necessary license.

12. The writ petition stands dismissed. No costs.

24.02.2023

Index: Yes/no
mrn



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C.V.KARTHIKEYAN, J.
(mrn)

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