

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11228 of 2023

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M/s Hira Agency through its Proprietor Hira Prakash Bhanarkar @ Hira P. Bhanarkar, aged about 42 years, Gender- Female, Wife of Prakash Bhanarkar, resident of Plot No. 1063, Binoba Bhawe Nagar, Galli No. 30, Dr. Ambedkar Marg, P.S.- Yashodhara Nagar, District- Nagpur, Maharashtra.

... .. Petitioner/s

Versus

1. The Union of India through the Chairman & CEO, Railway Board.
2. The Director, Tourism and Catering, Railway Board, New Delhi.
3. Director, Passenger Marketing, Railway Board, New Delhi.
4. General Manager, East Central Railway, Hajipur.
5. The Principle Chief Commercial Manager, East Central Railway, Hajipur.
6. Senior Division Commercial Manager, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dewendra Narayan Singh, Advocate
For the Respondent/s : Dr. K.N. Singh, ASG
Mr. Prabhat Kumar Singh, J.C. to AAG
Mr. Devansh Shankar Singh, J.C. to AAG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-03-2024

The petitioner is a catering/vending contractor of the East Central Railway (for brevity 'ECR') who is aggrieved with



the debarment issued by the ECR, as per Annexure-8. The petitioner's name is listed at Serial Nos. 6 and 7 of the impugned order which debars him from participating in the bidding process of all Railway catering contracts for a period of five years.

2. Learned counsel for the petitioner submits that the petitioner had been issued with six contracts where he was the successful bidder for operating the General Minor Units (for brevity 'GMU') being the catering stalls providing food and beverages services to the Railway passengers. The general instructions issued by the Railways as Catering Policy, 2017 itself provided that not more than five catering stalls shall be awarded. The petitioner submitted a representation to cancel one of his catering contracts. He was allotted with four and he had submitted the agreements and paid the necessary amounts for two. He was awaiting the cancellation of one of the contracts and the allotment of the 5th GMU which had led to the delay. The petitioner also contends that the delay in remittance was due to pandemic.

3. Learned Standing Counsel for the Railways, however, asserts that the pandemic was in the year 2020 far after the date of remittance. The petitioner could not have waited for



the cancellation of one GMU or for the allotment of the 5th GMU, since with respect to four GMUs he was awarded contracts as per the bid. The petitioner was obliged to make the remittances in time, on failure of which it causes difficulty to passengers also. The Railways was perfectly within its authority to debar the petitioner, is the contention taken.

4. The petitioner admittedly applied for operation of GMUs under the ECR by submitting tenders. He was awarded tender for running catering stalls at GMUs 15, 30, 33 and 36 at the Samastipur Railway Station and GMUs 39 and 45 for providing food and beverages service to the passengers at Darbhanga Railway Station.

5. The petitioner also admits that he was allotted the GMU 30 at Samastipur Division on 15.07.2019, GMU 15 at Samastipur Railway Station on 16.10.2019 and GMU 33 at the very same Railway Station on 15.07.2019. As far as Darbhanga Railway Station is concerned, he was allotted GMU 45 by letter dated 15.07.2019. Despite all the four Letter of Awards (for brevity 'LOA') having been issued, the petitioner made the remittances and entered into agreement with respect to only two LOAs being GMU 15 and GMU 33 at Samastipur Railway Station.



6. The reason stated by the petitioner for not having entered into the agreement as per the other two LOAs and making remittances are not justified. The LOAs were issued in the year 2019, almost at the same time; with respect to two of them the petitioner had entered agreements and also made remittances and hence he cannot contend that the remittances with respect to the other two were not made for reason of the pandemic. The pandemic also had not commenced at that point.

7. Further contention raised is that he was waiting for the cancellation of the 6th GMU and allotment of the 5th GMU. When four allotments were made to the petitioner which was within the limit prescribed even as per the catering policy of the Railways, he could not have raised such a contention to wriggle out of his responsibility in entering into an agreement for all the four LOAs.

8. The impugned order indicates that despite issuance of the LOA, the petitioner failed to deposit the annual licence fees with GST and the guarantee amount offered which had to be remitted and agreement executed within seven days. The debarment was issued as a consequence of cancellation of LOAs for reason of the petitioner having not complied with the conditions of the tender, with respect to the catering stalls GMU



30 at Samastipur Station and GMU 45 at Darbhanga.

9. We find absolutely no reason to interfere with the order passed and we reject the writ petition.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
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