

Item No.7
15.07.2024
Court. No. 9
GB

W.P.A. 16180 of 2023

Sri Madan Bhowmik
Vs.
The Union of India & Ors.

Mr. Jyoti Prakash Chatterjee

...for the Petitiones.

Mr. Sanajit Kumar Ghosh

...for the Respondents.

1. The writ petition has been filed for a direction upon the railway authorities to consider the representation of the petitioner dated April 19, 2023.
2. The petitioner's father had been granted a licence to carry on the business of a tea stall on the platform of Haur Railway Station. The licence agreement was valid from October 1, 1997 to September 30, 2002. The petitioner's father expired on January 7, 2002. After his expiry, the petitioner's mother continued to run the business and made payment of the licence fees. She expired on November 3, 2004. After expiry, the petitioner continued to run the business and also prayed for transfer of his licence to his name.
3. The learned advocate for the railway authority submits that the prayer was turned down by the IRCTC by a letter dated February 20, 2008. It was intimated to the petitioner that in terms of the railway board's catering policy, such transfer of licence in the name of the petitioner, would not be permitted. Challenging such cancellation W.P. No.659 (W) of

2009 was filed. The writ petition was disposed of by a learned coordinate Bench by an order dated July 7, 2009.

4. The Court held that the order of rejection did not disclose under what provisions of the catering policy transfer of licence, operated as a bar. Thus, the writ petition was disposed of by setting aside the order of cancellation and granting liberty to the IRCTC to take a decision upon reconsidering the prayers of the petitioner and by assigning reasons for such decision. Till such time the decision was arrived at, it was directed that the petitioner would not be evicted. The petitioner was also directed to pay all outstanding dues and the current licence fees according to the prevailing rate.
5. Acting in compliance of such order, the Group General Manager of the Corporation heard the petitioner and passed a speaking order on October 19, 2009. The order was followed by a demand on December 20, 2010, raised by the Senior Commercial Manager, Kharagpur, calling upon the petitioner to pay Rs.4,47,271/- as outstanding occupation fees for the tea stall. The said order dated December 20, 2010 was challenged in W.P. No.30048(W) of 2015. The writ petition was disposed of by another coordinate Bench on the following grounds:-
 - a) The petitioner raised a stale claim.

- b) The extant guidelines of the circulars of the railways permitted heirs of the deceased licensee to carry on business till the licence expired and not beyond such period.
 - c) In the instant case, the licence granted to the petitioner's father was valid up to September 30, 2002. The petitioner's father passed away on January 7, 2002. Admittedly the petitioner's mother continued to run the business. She passed away on November 3, 2004, and thereafter the petitioner applied for transfer of the licence to his name.
 - d) The court was not satisfied that the policy had either changed or that a legal heir had a right to obtain/transfer of the licence in his name, even beyond the validity period.
6. Under such circumstances, the learned judge not only dismissed the writ petition but also allowed the respondents to take appropriate steps for eviction as also for recovery of outstanding dues. Such order was passed on January 28, 2016. Thereafter, Sometime in April 2023, the petitioner renewed his prayer for an opportunity to continue with the tea stall on the platform.
7. It is submitted by the learned Advocate for the petitioner, that the petitioner has been evicted. In my opinion, the eviction was executed on the liberty granted by the high court in Writ Petition

No.30048(W) of 2015. It is also available from the order of His Lordship that the outstanding dues had not been paid as per the direction of the court in the first writ petition, that is, WP 659(W) of 2009.

8. Under such circumstance, the petitioner has failed to show how the authorities have infringed either a legal right or a fundamental right.
9. Accordingly, the writ petition is dismissed.
10. However, there will be no order as to costs.
11. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)