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ORDER SHEET

WPO/558/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

M/S. RAJA CATERER
VS
GENERAL EASTERN MANAGER, RAILWAY AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 30th July, 2024.

Appearance:
Mr. Asis Bhattacharyya, Adv.
...For the Petitioner

Mr. Sahasrangshu Bhattacharjee, Adv.
Mr. Rivu Dutta, Adv.
...for Respondent/Railway

The Court: The allegation of the petitioner is that the Assistant Commercial Manager/TC for Sr. Divisional Commercial Manager/Howrah, had illegally terminated the licence for running the tea stall (GMU) at Chuchura Station, platform no. 1. The authority also forfeited the security deposit by debarring the petitioner from participating in all catering contracts over Indian Railway including the IRCTC, for a period of five years. All such steps were harsh and also violative of principles of natural justice. The petitioner contends that the direction to remove the stall at Chuchura Railway Station, platform no. 1 and pay the due licence fee amounting to Rs. 2,63,334/- was further imposed without granting adequate opportunity to the petitioner and contrary

to the terms of the contract. Further submission is that the petitioner was being threatened by the Authority that the tea stalls at Sealdah and Hooghly Railway Station would be closed.

Mr. Bhattacharjee, learned advocate for the Eastern Railway submits that initially the petitioner had been granted licence to operate its stall at five railway stations. Due to non-payment of the licence fees despite several opportunities and reminders, the licenses were terminated. At present, the petitioner has been running stalls at Sealdah and Hooghly station. It is further submitted that against the dues payable by the petitioner towards licence fees in respect of the stall at Chuchura, the security deposit of the petitioner made against the grant of licence in respect of the stall at Sealdah Station had been adjusted. The petitioner had been asked to restore the security money of Rs. 1,01,642/- for the Sealdah Railway Station in terms of the Clauses 4.6 of the Agreement. Mr. Bhattacharjee further submits that if such security money is deposited the petitioner may continue with the stall at sealdah.

Having heard the learned advocates for the respective parties, this Court finds that the agreement /the contract between the petitioner and the Railways provides a dispute resolution mechanism. The petitioner has raised a dispute. The petitioner must avail of such dispute resolution clause in accordance with law. Article 19 being the Dispute Resolution Clause is as follows :

“19.1. In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and obligations of the parties on any matter in question, dispute or difference on

any account, the same will be resolved in terms of the General Conditions of Contract for works of Railways as amended from time to time and as per the provisions of Arbitration and Conciliation (Amendment) Act 2015 and the rules there as amended from time to time, and as per the extant instructions issued by Railway Board.”

Under such circumstances, this Court does not find any reason to invoke its jurisdiction under Article 226 of the Constitution of India. Article 15 of the contract provides that non-payment of licence fees shall be treated as default and material breach. Article 17 provides for termination and Article 19 provides an alternative remedy by way of dispute resolution. This is not a case of violation of principles of natural justice. The petitioner was granted adequate opportunity to pay off the licence fees. The railways have not acted without jurisdiction. Thus, in case of a dispute over a contractual relationship of like nature, the alternative remedy as per the contract should be availed of.

The writ petition is disposed of accordingly.

All parties to act on a server copy of this order.

(SHAMPA SARKAR, J.)

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