



2024:CGHC:48170

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1644 of 2015

- A. S. Patki And Sons (Dead) Siddhartha Kiran Patki S/o. Kiran Anant Patki, Aged About 27 Years R/o. Guru Prasad, Near Railway Hospital, Jairam Colony, Raigarh (C.G.) Pin 496001, Chhattisgarh

... Petitioner

versus

1. Divisional Railway Manager, South Eastern Central Railway, Bilaspur Division, Bilaspur, Chhattisgarh
2. Senior Divisional Commercial Manager, South Eastern Central Railway, Bilaspur Division, Bilaspur Chhattisgarh

... Respondents

For Petitioner	: Mr. Anju Ahuja, Advocate
For Respondents/SECR	: Mr. Ramakant Mishra, Dy. Solicitor General alongwith Ms. Jyoti Singh, Advocate

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

06/12/2024

1. By the present writ petition, the petitioner is aggrieved by the

order dated 27/02/2015 (Annexure P/1) whereby the Senior Divisional Commercial Manager, Bilaspur Division directed to close the catering units awarded to the petitioner as the contractual period of the said catering units has expired. The said order also reflects that the competent authority had decided not to extend the tenure of the said catering units further w.e.f. 01/03/2015.

2. Learned counsel appearing for the petitioner submits that during pendency of the present writ petition, similar issues were raised before the Hon'ble Supreme Court in the matter of **Senior Divisional Commercial Manager & Ors. V/s South Central Railway Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association & Anr.** reported in **2016 (3) SCC 582**. She referred paragraph 34 of the said judgment which is quoted hereinbelow:-

“34. For the reasons stated supra, this Court cannot interfere with the impugned judgment and order of the High Court. The Civil Appeals are dismissed. The order dated 11.04.2014 granting stay of the impugned order shall stand vacated. We, however, make it clear that only those licensees may be eligible for renewal of their licenses who can declare on affidavit that they do not have the license of more than one shop or kiosk in their name or benami license at the railway stations with periodical reasonable increase of license fee.....”

3. Learned counsel appearing for the petitioner further refers that the issue has again considered by the Hon'ble Supreme Court in Writ Petition (C) No. 373/2017 in case of **Vendors Cooperative**

Society Ltd. & Ors. V/s Union of India & Ors. wherein the Hon'ble Supreme Court reconsidered the issue of renewal of licence of licensees who have been doing business on the railway platforms and observed that the cooperative societies, partnership firms and HUF shall be allowed to be renewed as before in accordance with the existing policy and in view of the said observation of the Hon'ble Supreme Court, the case of the petitioner should be considered by the Railways by examining the fact whether the petitioner is falling within the category of cooperative societies, partnership firms and HUF.

4. Learned counsel appearing for the SECR submits that though from the pleadings of the petitioner in the writ petition, it is not clear whether the petitioner is falling within the category of cooperative societies, partnership firms and HUF but the same can be examined if the petitioner will place some proof or documents before the Railway authority. He further submits that the policy of the year 2008 has not been challenged, therefore, the instant writ petition itself is not maintainable.
5. I have heard both the parties and perused the documents as well as the judgment of the Hon'ble Supreme Court in case of Senior Divisional Commercial Manager & Ors. (supra) and the order passed in WPC No. 373/2017.
6. The Hon'ble Supreme Court observed in the order dated

30/10/2018 passed in WPC No. 373/2017 that *“This Court did not consider the case of Association of persons like the cooperative societies, partnership firms and HUF which held more than one licence. If the judgment in Senior Divisional Commercial Manager, South Central Railways and Others (supra) is implemented without regard to the purpose, it would result in reducing employment by restricting the number of licences to these associations of persons to one. In other words, cooperative societies etc., which hold more than one licence would be entitled to only renew one licence and would have to give up the others.*

In these circumstances, we are constrained to direct that the number of existing licences in addition to one, held by the cooperative societies, partnership firms and HUF, shall be allowed to be renewed as before in accordance with the existing policy.”

7. In view of the above direction of the Hon'ble Supreme Court in case of **Vendors Cooperative Society Ltd. & Ors. V/s Union of India & Ors.**, the present writ petition is disposed of with a liberty to the petitioner to approach the respondents/SECR by filing proof or documents in support of his category whether he is falling within the category of cooperative societies, partnership firms and HUF within one month before the Zonal Railway Manager, SECR, Bilaspur Division. Further the Zonal Manager, SECR, Bilaspur is directed to consider the representation/proof, if any, submitted by the petitioner regarding his category whether he is falling within

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the category of cooperative societies, partnership firms and HUF. He shall consider the same in accordance with the directives of the Hon'ble Supreme Court in the matter of Vendors Cooperative Society Ltd. & Ors. (supra) within further period of two months from the date of submission of application/ representation of the petitioner. After the decision of Railway Board, if the petitioner will be aggrieved by the decision of the Railways, the petitioner is at liberty to challenge the same before appropriate forum.

8. With the aforesaid observation and direction, the present writ petition is disposed of.

Sd/-
(BIBHU DATTA GURU)
JUDGE

\$. Bhilwar