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W.P.No.22378 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.22378 of 2021 and
WMP.Nos.23626 & 23627 of 2021

M/s.Arengo Catering,
Rep. By its Managing Partner K.P.Shafique,
No.13, Ground Floor, Rayala Towers,
15-B, Anna Salai,
Chennai 600 002

... Petitioner

Vs.

- 1.The Director/CS,
IRCTC, Corporation Office,
New Delhi 110 001
- 2.The Group General Manager,
IRCTC/South Zone,
No.6A, The Rain Tree Palace,
No.9, Mc.Nichols Road,
Chetpet, Chennai 600 021
- 3.The Joint General Manager/MCS,
IRCTC,
No.6A, The Rain Tree Palace,
No.9, Machnicle's Road,
Chetpet, Chennai 600 021

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order of the second respondent dated 06.10.2021 in



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No.2020/IRCTC/SZ/Mobile Genl.Vol-16 and quash the same.

For Petitioner : M/s.AL.Ganthimathi,
Senior Counsel
for Mr.AR Karthik Lakshmanan

For Respondents : Mr.V.G.Suresh Kumar

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 06.10.2021 thereby, after adjusting the unexpired concession fees, directed to clear the outstanding amount of Rs.24,81,717/-.

2. The petitioner is a catering unit running various mobile and static canteen stalls under IRCTC in various places in the south zone. The petitioner had contracts with the respondents and paid entire licence fee. Some of the contracts were terminated and the licence fee is also due to be payable by the respondents to the petitioner. However, on inspection, it was found deficiency and imposed fine and penalty. Thereafter, the petitioner informed that due to unexpected and unprecedented pandemic circumstances and lockdown and frozen of catering activities, the petitioner had incurred huge loss. Therefore, requested the respondents to



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waive the outstanding amount to south zone. However, without considering the request, the petitioner was informed that there was a revision of licence fee with effect from 18.11.2019 and decided to implement uniform licence fee for the period from 18.11.2019 to 22.03.2020 at 15.50%. However, the petitioner by communication dated 27.05.2021 to the second respondent objected the revision of licence fee. Therefore, without considering both the requests made by the petitioner to waive the penalty and also against the revision of licence fee, the second respondent informed the petitioner by the order dated 06.10.2021 that the due which is payable to the petitioner has been adjusted towards the amount which is payable by the petitioner. After adjusting the amount, the contract itself was terminated by the respondent.

3. The learned Senior Counsel appearing for the petitioner submitted that during Covid 19 pandemic circumstances, there was huge loss and as such, the petitioner requested to waive the penalty as well as raised objection for revision of licence fee. However, without considering the said request, the second respondent mechanically revised the licence



fee and also imposed penalty.

4. On perusal of the counter filed by the respondents and on hearing the submissions made by the learned counsel appearing for the respondents, revealed that the writ petition itself is not maintainable. As per the clause 9 of the tender document, there is a clause for arbitration in case of any dispute with regards to the contract. Further, the petitioner was imposed with fine based on the complaints and inspection. The petitioner is liable to remit other dues which have been raised based on the increase in the tariff as a policy decision which stands accepted by other licencees. That apart, the petitioner was a chronic defaulter in payments of the regular accrued licence fee as well as other dues. Further, the petitioner also failed to pay licence fee on time. In fact, as against the imposition of fine of Rs.49,95,232/-, the petitioner preferred appeal before the first respondent. It was rejected and the same was duly conveyed to the petitioner that the penal charges for delayed payments and railway fine cannot be waived off by the IRCTC. In fact, the petitioner was duly informed about the dues and also adjustment. Totally,



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the petitioner was due to the tune of Rs.96,08,946/- as on 13.09.2021.

The respondents have also recovered an amount of Rs.71,41,389/- from the unexpired concession fee of contract awarded to the petitioner which was terminated on 02.03.2021. Even still, the petitioner is due to the tune of Rs.24,81,717/-.

5. That apart, the petitioner categorically accepted by communication dated 09.08.2019 and sought for time to pay licence fee with interest on or before 31.10.2019. Insofar as the balance amount of GST and penal interest dues, the same were also accepted by the petitioner and sought for time to settle the said amount by communication dated 21.11.2019. By the communication dated 24.12.2019 also, the petitioner undertook to remit the fine amount. That apart, while imposing penalty and also enhancement of licence fee, the petitioner was given opportunity and after receipt of reply, the petitioner was imposed penalty and also increased licence fee at 15.50%. On perusal of the communication of the respondents dated 18.06.2021, catering tariff was revised from 35% to 70%. However, considering covid 19 pandemic



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circumstances and lockdown, the average percentage increased to the tune of 15.50%. Therefore, this Court finds no infirmity or illegality in the impugned order passed by the second respondent. As such, this writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

26.06.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.



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