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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2337/2022

SUNIL P K

.....Petitioner

Through: Mr. Anunaya Mehta & Mr. Vidhan
Malik, Advocates.

versus

MINISTRY OF RAILWAYS & ORS.

.....Respondents

Through: Mr. Sushil Raaja, SPC for UOI.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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19.11.2024

1. The petitioner has filed this writ petition, under Article 226 of the Constitution, against the forfeiture of earnest money deposit, security deposit and advance license fee, in respect of contracts awarded by Delhi division of Northern Railway to his wife [respondent No. 3 herein], for catering stalls.
2. Mr. Sushil Raaja, learned Counsel for the respondent-Union of India ["UOI"] raises a preliminary objection that the petition is not maintainable at the instance of the present petitioner.
3. I have heard Mr. Raaja and Mr. Anunaya Mehta, learned counsel for the petitioner, on this preliminary question.
4. Factually, the undisputed position is that the Railways had issued a tender notice in August, 2018 for allotment of 47 unreserved catering stalls, including 22 catering stalls reserved for women, at New Delhi



Junction and Anand Vihar terminal. Respondent No. 3 [petitioner's wife] applied for allotment of some of the stalls, and was allotted five stalls, all in the category reserved for women. Allotment letters dated 22.08.2019, 23.08.2019, 24.08.2019, 27.08.2019 and 02.09.2019 have been placed on record. It bears repetition that all five letters of award were addressed to respondent No. 3, and not to the petitioner.

5. The letters of award required deposit of bank guarantees and advance license fees of one year, all of which were duly deposited by respondent No. 3. It is the case of the petitioner that the amounts were deposited by respondent No. 3 from her proprietorship concern, but the source of funds was a partnership firm, in which the petitioner was a partner. It appears that matrimonial disputes have since arisen between the petitioner and respondent No. 3.

6. Be that as it may, various communications were addressed by the Railways, all to respondent No. 3, with regard to commencing the catering units, including a communication dated 24.03.2021, entitled "*LAST & FINAL OPPORTUNITY*". This letter was also copied to the petitioner herein, although the reason for the same is not very clear. In the letter dated 24.03.2021, reference has also been made to letters dated 22.01.2021 and 29.01.2021 addressed to the Railways, by which respondent No. 3 has expressed her disinterest in continuing the catering stalls, and requested the Railways to take necessary action to cancel the allotment of the stalls.

7. Finally, by the impugned letter dated 01.07.2021, the Railways cancelled the allotment and also forfeited the earnest money deposit for the five stalls, as well as the security deposit and the advance license fee.



It is the contention of the petitioner that such forfeiture is illegal and beyond the scope of the notice inviting bids, and the allotment letters.

8. I am unable to appreciate the basis on which the petitioner seeks to maintain the writ petition. The tenders were invited specifically in the “women category”, and the successful bid was of respondent No. 3. Whatever the source of her finances, she is the one who placed the earnest money deposit, the security deposit and the advance license fee with the Railways. There is no privity whatsoever between the Railways and the petitioner herein. The fact that the petitioner provided the funds to his spouse for investment in her business is, in my view, neither here nor there, as far as his *locus vis a vis* the contractual action of the Railways are concerned. If at all the petitioner has any claim, those may be agitated against respondent No. 3, and not against the Railways. The claims against the Railways, if any, can be asserted only by respondent No. 3.

9. The petition is dismissed on this ground, without prejudice to the rights and contentions of respondent No. 3 with respect to actions of the Railways, and also without prejudice to claims, if any, that the petitioner may wish to raise against respondent No. 3.

PRATEEK JALAN, J

NOVEMBER 19, 2024

‘pv/AD’/