

W.P.A. 3773 of 2025

13.3.2025

sl. 12
sk, ct.25,

Abdul Haque Laskar

vs

Union of India & Ors.

Mr. Saptarshi Roy
Ms. S.S.Shah
Ms. Gargi Roy
...for the petitioner

Mr. Ganga Prasad Mukherjee
Mr. Subrata Santra
...for the UOI/respondent no. 1-3.

Affidavit of service as well as the supplementary affidavit filed by the petitioner is taken on record.

The writ petitioner has held a contract of parking space with the respondent Railways, for the parking space at Lakkhikantapur Railway Station His contract has terminated on January 25, 2025.

After termination of contract with him, the respondent Railways have floated new tender and obtained the highest bidder for operation of the parking space at Lakkhikantapur Railway Station. The present petitioner earlier has moved this Court to pray for extension of his contract so terminated due to efflux of time and the matter travelled to the Hon'ble Division Bench in MAT 127 of 2025. The Hon'ble Division Bench by dint of its order dated January 29 2025, has been pleased to hold that there would not be any scope under the existing policy-guidelines for extension of the existing contract of the petitioner unless and until the three exceptional circumstances have emerged, as mentioned in the said policy-guidelines. Those exceptional circumstances are as follows:

- i) *Open tender floated in advance but could not be finalized due to unavoidable administrative circumstances;*
- ii) *Open tender floated in advance but could not be finalized due to poor response; and*
- iii) *Subsequent quotations could not be obtained due to poor response.*

According to the writ petitioner such exceptions emerged only after disposal of the appeal by the Hon'ble Division Bench vide the said order dated January 29 2005, as the successful bidder in the new tender process has withdrawn his bid and candidature and did not want to proceed further with the contract. In support of such contention, the petitioner has produced copy of a letter of the said successful bidder addressed to the respondent Railways dated February 5, 2005.

Learned advocate for the petitioner has submitted that as a result of the same a vacuum has been created with all propensities to jeopardize the public service regarding operation of the parking space at Lakkhikantapur Railway Station.

Mr. Roy, learned advocate, who has represented the petitioner, has referred to a Clause in the *Model Schedule of Powers, 2018*, issued by the Ministry of Railway, Government of India. He submits that such provision has been made only to combat such impasse as has been created as regards the parking space in Lakkhikantapur Railway Station after withdrawal of the candidature by the highest bidder in the subsequent tender process and due to lack of operator.

He says that according to the said *Schedule of Powers*, if there is a lack of response for open tender, contract can be awarded in accordance with the terms of the said *Schedule of Power 2018*, on quotation basis, for a limited period, of three months at-a-time.

The writ petitioner who has earlier prayed for extension of his contract but has failed to establish his case before the Court of law, is now praying before the respondent authority that in terms of the said provision of the *Schedule of Power 2018* his contract may be extended for a period as stipulated in the said rules, in view of the current impasse as created due to withdrawal of his candidature as the successful bidder in the tender process.

In this regard he has written a letter dated February 11, 2005, to the concerned officers of the respondent Railways, which is stated to have not attracted any attention of the said authorities, as yet. Thus, in this writ petition, the petitioner has prayed for due consideration of his representation dated February 11, 2025, submitted before the respondent.

Mr. Mukherjee, learned advocate appears for the respondent Railways.

So far as the petitioner's claim that in the subsequent tender process the highest bidder has thereafter withdrawn his bid and candidature vide letter dated February 5, 2005, is concerned the same has not been seriously confronted here. In stead a copy of letter of the Divisional Railways Manager(C), Eastern Railways, Sealdah dated February 25, 2025, addressed to the petitioner is

handed over to Court to submit that the petitioner's representation dated February 11, 2025, has already been considered and disposed of by the said respondent Railways authority.

Learned advocate for the respondents has emphatically submitted that the respondent authority reserves the unfettered statutory power and the unqualified right regarding floating tender and entering into a contract with a suitable bidder. In that respect, according to the respondent authority, the petitioner or any other person cannot have any vested right for either extension of his contract which has already been extinguished or any preferential right over the general public at large, regarding grant of further tender.

For the reasons as above, learned counsel for the respondent Railways have raised strong objections as regards the contention and prayer of the petitioner in the present case.

Mr. Roy has, however, raised objection that, neither any hearing has been given to the petitioner before disposing of the petitioner's representation dated February 11, 2025, nor the copy of the said order dated February 25, 2025 has ever been served upon the petitioner by the said respondent.

Having heard both the learned counsels and perusing the documents in the writ petition, I find that the petitioner's representation dated February 11, 2025, is with regard to his prayer that the respondent authorities may espouse the relevant Clause as enumerated in the *Scheme of Powers 2019*, until and unless any tender as regards the

parking lot at Lakkhikantapur Railway Station is finalized.

On a careful consideration of the documents submitted in Court today on behalf of the respondent Railways, i.e. a copy of the letter of the Divisional Railway Manager(C), Eastern Railway, Sealdah dated February 25, 2025, it appears that the said authority has neither mentioned therein regarding any opportunity of hearing having been extended to the petitioner nor has denied the relevant rules under the *Schedule of Powers 2018*, to be in vogue. It is also learnt that the order has never been communicated to the petitioner in response to his representation dated February 11, 2025.

Under such circumstances, the Court is of considered opinion that consideration by the respondent authorities of the petitioner's representation dated February 11, 2025, has not been in a proper manner.

The petitioner in compliance of the rules of natural justice should have been given an opportunity of hearing and his prayers should have been considered in the light of the relevant provisions of the *Scheme of Power 2018*.

Under such circumstances, the Court is of considered opinion that the decision of the respondent Railways in its letter dated February 25, 2025, if any, be set aside. The said respondent shall consider the petitioner's prayer by dint of his letter dated February 11, 2025, afresh after granting an adequate and reasonable opportunity of hearing to the writ petitioner and decide about

his prayers made thereby by dint of a reasoned written order.

It is further directed that the said respondent authorities shall conclude the exercise as above within a period of three days from the date of communication of copy of this order in the office of the respondent Railways.

With the above observations and directions the writ petition being WPA 3773 of 2025 is disposed of.

Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)