

21.05.2025
rpan/09

MAT 509 of 2025
+
IA No.: CAN 1 of 2025
M/s A. H. Wheeler & Co. (Pvt.) Ltd.
– Versus –
Indian Railways & Others

Ms. Sonal Shah,
Mr. Kushagra Shah,
Ms. Rittwika Banerjee
... for the Appellant.

Mr. Rabi Prosad Mookherji,
Ms. Moumita Mondal
... for the Railways/Respondents.

The present appeal has been preferred challenging an order dated 31st January, 2025 passed by the learned single Judge in the writ petition, being WPA 1557 of 2025. The subject matter of challenge in the said writ petition was an order dated 13th January, 2025, passed by the respondent no.4 herein. By the said order impugned, the learned single Judge directed the parties to exchange their affidavits but the interim order, as prayed for, was refused.

Ms. Shah, learned advocate appearing for the appellant submits that challenging the inaction on the part of the railway authorities/respondents to allow the writ petitioner/appellant to operate its stalls in the light of the Railway Board notifications dated 21st May, 2020, 24th December, 2020 and 22nd October, 2021, a writ petition, being WPA 22023 of 2024 was preferred. Pursuant to the order dated 4th September, 2024 passed in the same, the respondent no.4 passed an order on 28th October, 2024. Challenging the said order, the appellant preferred the writ

petition, being WPA 26647 of 2024 which was disposed of by an order dated 6th November, 2024 directing the respondent no.4 to revisit the issue with a further direction that the appellant shall be permitted to run the multi-purpose stall upon payment of the usual licence fees till a fresh decision is taken. Pursuant to the said order, the respondent no.4 passed an order dated 13th January, 2025.

Ms. Shah submits that a perusal of the order dated 28th October, 2024 and the order dated 13th January, 2025 would reveal that the respondent no.4 has simply reiterated the reasons which were given earlier for rejecting the appellant's claim. The respondent no.4 had not revisited the issue, as directed by the learned single Judge and the said order having been passed in derogation to the Hon'ble Court's directives, is unsustainable in law. Such argument, as advanced, was glossed over by the learned single Judge and the interim order was refused.

She further submits that the respondents have adopted a discriminatory practice. In respect of the appellant the extension was granted only for a period of 68 days whereas in respect of others the self-same respondents have extended the tenure of the contract for a substantial period of time, even beyond 500 days, as would be explicit from the annexures.

Mr. Mookherji, learned advocate appearing for the respondents, however, denies and disputes the contention of Ms. Shah and submits that the tenure of the contract had admittedly expired and the allegation that the respondents

have acted arbitrarily is also unfounded. In view thereof, the learned single Judge has rightly refused to exercise discretion in favour of the appellant to grant the interim protection, as prayed for.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the period of contract has expired on 6th September, 2024. The Railway circulars upon which reliance was placed by the appellant appear to have been dealt with in the order impugned and it was also observed that the appellant got an opportunity to operate its stalls for about 188 days till 6th January, 2025.

In the said conspectus, the learned single Judge refused to exercise discretion in favour of the appellant and refused to grant the interim order, as prayed for and we do not find any infirmity in the same and as such, no interference is called for.

The appeal and the connected application are, accordingly, dismissed.

There shall, however, be no order as to costs.

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

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)