

**04.09.2025.
18
Ct.No.7.
as**

WPA 16669 of 2021

**Sakir Ali Azizi
Vs.
Union of India & Ors.**

Mr. Debrup Bhattacharya,
Ms. Saptamita Pramanick.
...for the Petitioner.

Mr. Nilanjan Bhattacharjee, Ld. Sr. Adv.,
Mr. Akash Adak

1. The present writ petition has been preferred challenging the legality and propriety of the order dated 7th May 2014 passed by the Assistant Commercial Manager, Howrah, cancelling the petitioner's portal license, as well as the order dated 15th May 2018 passed by the Senior Divisional Commercial Manager, Howrah.
2. Mr. Bhattacharya, learned Advocate representing the petitioner, submits that the petitioner was granted a portal license prior to 2010 and had been working as a portal license holder, carrying passengers' luggage without any blemish since then. However, the petitioner's portal license was suddenly cancelled by the Assistant Commercial Manager, Howrah, vide order dated 7th May 2014, on the ground that the petitioner was found working in the parcel area, which was highly irregular in view of the Railway Board's letter dated 30th July 1997.

3. The petitioner submitted a representation requesting the concerned authority to reconsider the decision. Subsequently, the Senior Divisional Commercial Manager, by an order dated 15th May 2018, claimed that the petitioner was involved in a parcel license contract. Mr. Bhattacharya submits that to obtain a parcel license contract, a person must be eligible and have a registration number from the competent authority, and therefore, the Senior Divisional Commercial Manager's claim was factually incorrect.

4. He further submits that both orders were passed without affording any opportunity of hearing to the petitioner. He prays that both orders be set aside and a direction be issued to the concerned respondent to grant a portal license in favour of the petitioner, so that the petitioner may earn his livelihood by rendering services as a licensed portal at Howrah Railway Station.

5. Mr. Bhattacharjee, learned Senior Advocate representing the respondent, vehemently opposes the contentions advanced by Mr. Bhattacharya, learned Advocate for the petitioner. He raises the issue of maintainability of this writ petition on the ground of its belated presentation. He asserts that the petitioner, with the objective of availing benefits generally awarded to portals engaged in parcel handling work, started working in the parcel area, and accordingly, his portal license was cancelled by the Assistant Commercial Manager by order dated 7th May 2014.

6. He further submits that, as per the applicable rules, if such license is cancelled by the Senior Divisional Commercial Manager or the Assistant Traffic Superintendent, there is no requirement to assign any reasons for such cancellation.

7. In reply, Mr. Bhattacharya relies on an unreported decision passed by a Coordinate Bench of this Court in WP No. 1019 (W) of 2016, and contends that in a similar case, taking note of the fact that the license was cancelled without affording an opportunity of hearing, the order cancelling the license was set aside with a direction upon the competent authority to consider the defense raised by the petitioner therein and to pass a reasoned order.

8. Mr. Bhattacharya has also pointed out that while no reason is required to be assigned if the license is cancelled by the Divisional Commercial Manager or Assistant Traffic Superintendent, in the present case, the license was initially cancelled by the Assistant Commercial Manager, Howrah.

9. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

10. Admittedly, there is no prescribed period of limitation within which an aggrieved person is required to prefer a writ petition; however, it is well settled that such petition must be filed within a reasonable time. However, there is no absolute bar on the Court entertaining a writ petition presented belatedly.

11. In the present case, initially, the portal license was cancelled on the allegation that the petitioner was found

working in the parcel area, by an order dated 7th May 2014. Subsequently, on 15th May 2018, the issue was revisited, and it was alleged that the petitioner was involved in parcel activities by taking a parcel contract. Thus, two different orders for cancellation of the petitioner's license were issued on two distinct grounds, and in both cases, no opportunity of hearing was afforded to the petitioner. Rule 8 of the applicable rules grants immunity to the Senior Divisional Commercial Superintendent and Assistant Traffic Superintendent to cancel the license without assigning any reason. However, such immunity is not available to any other officer of the railway.

12. The principle of natural justice mandates that before taking any adverse action against a person, he must be given an opportunity to defend himself and be afforded a hearing. Admittedly, both the orders were passed in contravention of these principles of natural justice. Taking note of this legal framework, a Coordinate Bench of this Court set aside the order cancelling the license and directed the concerned respondent to consider the defense raised by the petitioner and pass a reasoned order.

13. I do not find any reason to disagree with this proposition laid down by the Coordinate Bench.

14. Accordingly, applying the aforesaid proposition, the writ petition is disposed of by setting aside the orders dated 7th May 2014 and 15th May 2018. The petitioner shall be at liberty to submit a fresh representation before respondent No. 5. In the event such representation is filed, respondent

No. 5 shall consider the same, address the grievances raised therein, and pass a reasoned order. Prior to taking any decision, an opportunity of hearing shall be afforded to the petitioner. If respondent No. 5 finds merit in the petitioner's contentions, appropriate consequential action shall be taken, which may include the grant of a portal license. Conversely, if respondent No. 5 concludes that the petitioner's contentions are without substance, a reasoned order shall be passed and duly communicated to the petitioner. The entire exercise shall be completed within six weeks from the date of communication of this order.

15. With this observation and order, this writ petition is disposed of, however, without any order as to costs.

(Partha Sarathi Chatterjee, J.)