

W.P.(MD)No.5949 of 2025

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DATED: 12.03.2025

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.5949 of 2025
and
W.M.P.(MD)Nos.4350 & 4351 of 2025

Jerrys Anbunayaham

... Petitioner

Vs.

1.The Railway Board,
Rep. by its Director (Tourism & Catering)
Ministry of Railway, Government of India,
Rail Bhavan, New-Delhi - 11000

2.The Senior Divisional Commercial Manager,
Tiruchirappalli Division, Southern Railways,
Tiruchirappalli.

3.The Chief Commercial Manager,
Southern Railways,
Central Branch, Park Town,
Chennai - 600 003.

4.Trichy District Co-operative Milk Producers
Union Limited,
Pudukottai Road, Kottapatti,
Trichy - 628 023.

... Respondents



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Prayer : This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order in No.T/C, 79/Milk Stall/(MS end) TPJ on the file of the second respondent dated 26.02.2025 and quash the same and further direct the second respondent to renew the license for running Milk Stall at Chennai end of Platform No.1 of Trichy Railway Junction and permit the petitioner to run Milk Parlor without insisting for condition that the fourth respondent to run the Milk Stalls only through its employees.

For Petitioner : Mr.Adhithya
for Mr.G.Prabhu Rajadurai

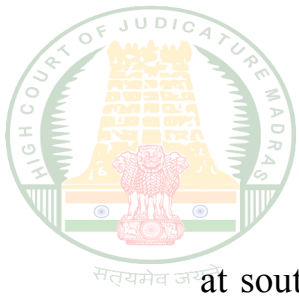
For Respondents : Mr.K.Govindarajan
Deputy Solicitor General of India
for R1 to R3

Mr.M.Krishnan
for Mr.J.Devasenar, Standing Counsel
for R4

ORDER

The petitioner challenges the impugned order of the second respondent in his proceedings dated 26.02.2025.

2. The petitioner is a franchise of the fourth respondent. The Southern Railways allotted two spaces in its Railway Station at Tiruchirappalli to the fourth respondent. Both were in Platform No.1, one



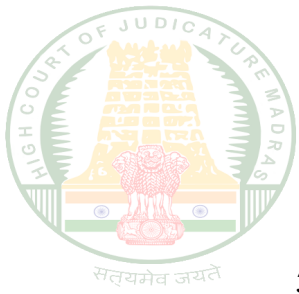
W.P.(MD)No.5949 of 2025

WEB COPY

at southern end and the other at northern end. The fourth respondent, in turn, gave a franchise license to the writ petitioner and one Mohammed Asraf in the year 2007. The license was originally for three years and it was renewed from time to time.

3. In 2022, the Railway Board decided to call for fresh tenders for both Milk Booths. This constrained the writ petitioner herein to file W.P. (MD)No.5581 of 2024. Similarly, he filed another writ petition along with Mohammed Asraf in W.P.(MD)No.15525 of 2022 seeking for renewal of license without insisting on the condition that Aavin should run Milk Parlour by its own and not through franchise. Both the writ petitions were clubbed together and were disposed by a common order dated 04.04.2024.

4. By that order, this Court directed the Railway Board to take into account the representation made by the writ petitioner herein and by Mohammed Asraf and that of Aavin and take a call, whether it wants to renew the license or to continue with the tender process. At the time of disposal of the writ petitions, this Court permitted the tender process to go on, but its confirmation to be based on the decision of the Railway Board.



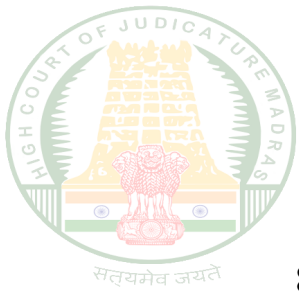
W.P.(MD)No.5949 of 2025

WEB COPY

5. The Railway Board decided that the Agreement, that had been entered into between the Southern Railway and Aavin, was a bipartite one and not a tripartite one as in the case of Mysuru Railway Station. Hence, it decided that modification of the Agreement cannot be considered by permitting a franchise of the licensee to be included in the Agreement and thereby permit renewal. Pursuant to the order passed by the Railway Board, the impugned order was passed on 26.02.2025. On the very same day, the second respondent also confirmed auction in favour of M/s.Nithya Aavin Stall, Vellore and M/s.Ibah Agency, Villuppuram.

6. This writ petition was filed on 03.03.2025. When the writ petition came up for admission, the learned Deputy Solicitor General of India made a submission that if the Booths are directly run by the Co-operative Society, the Railway Board has no issue. But, it will not grant a license to run a Milk Parlour through franchise.

7. The learned counsel appearing for the fourth respondent took time to file counter.



W.P.(MD)No.5949 of 2025

WEB COPY

8. The fourth respondent filed a counter stating that in three Districts, namely, at Madurai, Hosur and Dharmapuri, license has been granted to the fourth respondent and the Milk Parlours are being operated by the franchise of the fourth respondent.

9. I heard Mr.Adhithya, for Mr.G.Prabhu Rajadurai, for the petitioner, Mr.K.Govindarajan, learned Deputy Solicitor General of India for R1 to R3 and Mr.M.Krishnan, learned counsel for Mr.J.Devasenar, learned Standing Counsel for R4.

10. At the outset, I should point out that the writ petitioner seeks for renewal of the license granted to the fourth respondent. The Agreement has been entered into between the fourth respondent and the respondents 2 and 3 and not between the petitioner and respondents 2 to 4. Grant of renewal is not a matter of right, but a matter of discretion of the owner. The owner in this case is the Southern Railways. The Southern Railways has taken a decision based on the clarification issued by the Railway Board that, it wants to go ahead with the auction. As to how the Railway Board wants to utilise its properties, is entirely within the discretion of the



W.P.(MD)No.5949 of 2025

WEB COPY

Railway Board. Unless and until, the decision, that has been taken by the respondents 2 and 3, is contrary to the Policy, which has been laid down by the first respondent, the scope for interference is very limited.

11. The proceedings of the Railway Board dated 30.12.2024 makes it clear that the Railway Board is not willing to modify the Agreement entered into between the respondents 2 to 4 and confer the right of renewal to the fourth respondent and include a third party to the Agreement, namely, the writ petitioner. That puts an end to the claim of the writ petitioner.

12. Running a Milk Parlour is a facility provided by the Railway Board to its customers, namely, the passengers. When a right of renewal of license is not available and it is entirely discretionary, whether the Railways want to give out this right of license by way of fresh tender or renewal, is also one within the discretion of respondents 1 to 3. The respondents 1 to 3 have decided that they will go for new auction.



W.P.(MD)No.5949 of 2025

WEB COPY

13. The learned Deputy Solicitor General of India contends that while the Railway Board, though prefers co-operative Institutions like the fourth respondent, when the fourth respondent participated in the auction with respect to the Madurai Railway Station; it failed to do so when it came to Tiruchirappalli Railway Station. This shows that the fourth respondent is not interested in taking a license with respect to Tiruchirappalli Railway Station. If the writ petition is ordered as prayed for, then I would be issuing a direction to the fourth respondent, which is not interested in taking the tender, to enter into a contract with the respondents 1 to 3. An order of the Court can neither create a contract nor re-write a contract.

14. Furthermore, as per the orders passed by the Railway Board, the respondents 1 to 3 have proceeded further and have given the right to two third parties named above on 26.02.2025 through auction. As the rights of third parties have been intervened, the prayer sought for by the writ petitioner cannot be granted.



W.P.(MD)No.5949 of 2025

WEB COPY

15. In the light of the above discussions, this writ petition is dismissed. This order will not prevent the fourth respondent from approaching the respondents 1 to 3 and seeking for allocation of spaces for running Milk Parlour in any area in Tiruchirappalli Railway Station. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.03.2025

NCC :yes/No
Index :yes/No
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To

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V.LAKSHMINARAYANAN,J.

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Order made in
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