

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1643 OF 2022

Bombay Shoe-Shine Workers Co-Op. .. Petitioners
Society Ltd. through its Secretary,
A registered Co-op. Society bearing
its Registration No.BOM/PRD/IND/
298 of 1975, Room No.40,
Asha Nagar, Prabhat Colony,
Santacruz (East), Mumbai-400 005.

Versus

1 The General Manager, Central .. Respondents
Railway Mumbai Division, Central
Railway Headquarters, Chatrapati
Shivaji Maharaj Terminal, Fort,
Mumbai - 400 001.
gm@cr.railnet.gov.in,
drm@bb.railnet.gov.in

2 Senior Divisional Commercial
Manager, Mumbai division (Central
Railways), Catering Section, First
Floor, PRS Building, Reservation
Centre, CSMT, Mumbai-400 001.
srdcm@bb.railnet.gov.in

3 Director Traffic Commercial,
Ministry of Railways (Railway
Board), 239, Railway Bhavan,
Raisina Road, New Delhi-110001.
mt@rb.railnet.gov.in

Ms.Jane Cox a/w Mr.Vinayak Suthar i/b Mr.Ghanshyam
Thombare for the Petitioners.
Mr.T.J. Pandian a/w Gautam Modanwal for the Respondents.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ**

DATE : 18th MARCH 2026

JUDGMENT (PER BHARATI DANGRE, J) :

1 The Petitioner Bombay Shoe-Shine Workers Co-Op. Society Ltd., a Society registered under Maharashtra Co-operative Societies Act, 1960 as Producers' Society and sub-categorized as Industrial Producers' Society as per Section 10(1) the Maharashtra Co-operative Societies Rules, 1961, engaged in carrying out an activity of polishing shoes of passengers at Earmarked Railway Stations, has approached this Court seeking the following reliefs :-

“a. That this Hon'ble Court be pleased to peruse Shoe Shine policy 2018 framed by Respondent No. 2 dated 27.02.2018 and, after going into the legality thereof, by a Writ of mandamus or any other appropriate writ, order or give direction, to quash and set aside the same.

b. That this Hon'ble High court may be please by a Writ of mandamus or in the nature of mandamus or any other appropriate Writ or order or direction, to direct the Respondent No.1 to reconsider the Shoe Shine Policy 2018 and make sure that the livelihood and job security of members of the Petitioner Society may be protected.

c. That this Hon'ble High court may be please by a Writ of mandamus or in the nature of mandamus or any other appropriate Writ or order or direction, to direct the Respondent No.1 to reconsider the Shoe Shine Policy 2018 and introduce provisions for the welfare of societies who have been engaged at their respective Earmarked Railway Stations for more than decade so that their licenses may be renewed from time to time.”

2 The Petition impleads General Manager and Senior Divisional Commercial Manager, Central Railway, Mumbai division as Respondent Nos.1 and 2 alongwith the Director of

Traffic (Commercial) as Respondent No.3. Respondent No.1 is the Railway Administration as per Section 2(32) of the Railways Act, 1989 and is responsible for framing policy guidelines, whereas Respondent No.2 is responsible for inviting tenders for Mumbai Region awarding work of shoe-shine under the Policy formulated by Respondent No.1.

On the Petition being filed, on 02/03/2022, the Respondents were permitted to file Affidavit in Reply and though the tender process initiated was sought to be stayed, the Division Bench by making it clear that it is open for the Petitioner to participate in the subject tender, refused to interdict the tender process, but declared that any bids accepted in furtherance of the subject tender, shall be subject to outcome of the Writ Petition.

On 04/04/2022, it was noted that no response was received to the OnLine tender published and a fresh tender in manual form with documentation in Hindi was in the pipeline.

3 The Writ Petition was listed before this Court from time to time when various orders were passed and on 22/02/2023 when the counsel for Petitioner pressed for urgent ad-interim relief to the effect that the Railways must be restrained from proceeding with an open tender and must be directed to reconsider its 'Shoe-Shine License Policy' (hereinafter referred to as 'the Policy'), the interim relief was declined by recording the reasoning to the following effect :-

“5. When Mr Singhvi invites attention to the decision of the Supreme Court in Senior Divisional Commercial Manager, South Central Railways and Ors v SCR Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association & Anr, we believe he may be in significant error. That was, clearly, a case of displacement of small units providing

catering services by large-enterprise caterers. That is not the case here. The Petition itself indicates to us quite the reverse. The Shoe-Shine Policy and the Shoe-Shine Tenders under that policy are not intended for corporates. In fact, there is no such thing. They are meant for societies of precisely persons such as the members of the Petitioner. The entire thrust of the Petition is that if the Petitioner is forced to bid its members will be deprived of a livelihood because they cannot bid competitively and the rates of the Shoe-Shine services are fixed in any case by the Railways. The rates are fixed for everybody, not just for the Petitioners. But what the Petitioners really object to is the participation of other associations and unions in the tendering process. This is clear *inter alia* from paragraph 19 of the Petition. There the Petitioners say that another union filed a written complaint demanding the termination of the Petitioner's contract of 2nd February 2020, because the Petitioner was deregistered by the Assistant Registrar of Cooperative Societies. We are not concerned with these questions of registration and orders of the Assistant Registrar. If the Petitioners take that up in a separate Writ Petition, we will address it. If the registration has been restored, then that is the end of that matter. The point is that there may be more than one association at these reserved Railway Stations. Their membership may be different. It is obviously necessary in the interests of transparency and fairness and providing a fair opportunity to all Shoe-Shine persons to allow them to participate. What the Petitioners are essentially saying is that since they have been providing these services for such a long time, the Shoe-Shine contract should be given to – and only to – them and to no one else. This is why, according to them there should be no process of bidding even amongst the Shoe-Shine persons. This is not a question of a union of Shoe-Shine workers or persons being displaced by a corporate or a corporatized entity. No such thing exists. The policy itself is directed at unions of Shoe-Shine persons and similar associations or societies. There is no insistence that the participant must be either only a society or an association or a union. It may be any form of collective of any Shoe-Shine persons.

6. In this view of the matter, we do not see how it is possible to give Mr Singhvi's clients the kind of relief that they want restricting the award of the Shoe-Shine contracts for any period of time only to the Petitioners. That would mean cutting out other existing associations and societies."

4 The above order passed by the Court on 22/02/2023 was subjected to an Appeal before the Supreme Court and on 13/03/2023 the following order was passed :-

“UPON hearing the counsel the Court made the following
ORDER

Having heard the learned senior counsel for the petitioner and having perused the material placed on record, we do not feel inclined to consider interference in the impugned order dated 22.02.2023, which is essentially an interim order, whereby the High Court has declined the prayer of interim relief sought for by the petitioner.

However, taking note of the subject-matter of the pending litigation and the totality of circumstances, it does appear proper to observe that if the petitioner makes an appropriate request before the High Court for taking up the pending writ petition for consideration at an early date and in priority, such a request may be given due consideration.

It goes without saying that the observations occurring in the order impugned are relevant only relief for the purpose of consideration of the prayer for interim relief as made by the petitioner and obviously, those observations shall not be decisive in the final adjudication of the matter by the High Court.

Subject to the observations foregoing, this petition stands dismissed.

Pending applications also stand disposed of.”

5 Upon the pleading being completed, the Petition is taken up for hearing and by consent of the respective counsel representing the Parties, we deem it appropriate to issue ‘Rule’, which is made returnable forthwith.

We have heard the learned counsel Ms.Jane Cox for the Petitioner and Mr.T.J. Pandian for the Respondents.

With the able assistance of the respective counsel, we have perused the Writ Petition alongwith its annexures and also the Affidavit in Reply filed on behalf of the Respondents.

The grievance of the Petitioner, revolve around ‘Shoe-Shine Policy/Boot Polish Policy’, which was formulated by the Ministry of Railways (Railway Board) and what we have before us is the Policy formulated in 1999, thereby revising the existing policy.

The Shoe-Shine contract on stations framed in form of a

Policy, was aimed in generating employment opportunities for the persons belonging to lowest strata of the Society and it contemplated awarding of Shoe-Shine Licenses to the Co-operative Societies of workers in the tanning industry or in the manufacture of leather goods such as shoes. The strategy of the said Policy was highlighted as below :-

STRATEGY :

“In order to generate employment opportunities for the persons belonging to lowest strata of the society, we may award Shoe-shine licenses to the cooperative societies of workers in the tanning industry or in the manufacture of leather goods such as shoes, etc. Out of these cooperatives, preference should be given to those which compose substantially or fully of members of scheduled castes and scheduled tribes.”

As per the terms and conditions stipulated therein, the Contract was to be awarded for a period of 3 years and it was permissible to be renewed after every 3 years subject to review of performance and the Contract to the Society was to be awarded between certain fixed stations to be decided by the Competent Authority.

The relevant clauses imposed as terms and conditions were specified thus :-

“2.1

2.2 The licenses for shoe polishing at stations are to be given to cooperatives of workers in the tanning industry or in the manufacture of leather goods such as shoes, etc and each contract should not cover more than one civil district as distinct from a Railway district.

2.2

2.3

2.4

2.5 A copy of the constitution of the society should be submitted by the society alongwith a list of their members within a week of acceptance of the contract prior to its execution. The constitution should clearly

indicate that their members belong to SC & ST and weaker sections of the society. In case of absence of such clause they should submit an affidavit for the same.

2.6

2.7

2.8 All Shoe shine boys should be medically examined by the railway Doctor twice in a year and the certificate to that effect should be sent to the office for record.

2.9

2.10 The laminated identity card with photograph duly signed and stamped will be issued to the shoe-shine boys by the society which all the boys should put on their uniforms while they are on railway premises. Cards should indicate their names and age. In case any boy is found without the card, he will be treated as unauthorised vendor and suitable action will be taken against the boys as well as the institution.

2.11

2.12 No shoe shine boy below 18 years of age should be engaged for this purpose.

2.13

2.14 Railway reserves the right to change the terms and conditions.

2.15 The contract can be terminated by the railway administration at any time without assigning any reasons thereto.

2.16 The list of names of shoe-shine boys with their photographs will be kept in the station records.

2.17

2.18 No subletting of shoe-shine licence is permitted either by society or by shoe-shine boys.

2.19

2.20

2.21 Responsibility for observance of Minimum Wage Act should lie with the cooperative to whom the contract is awarded for which a periodical undertaking should be obtained from the society."

6 The said Policy was reviewed and on 23/11/2000 and the strategy of the same was formulated by directing as below :-

"In order to generate employment opportunities for the persons belonging to lowest strata of the society, we may award Shoe-shine licences to the registered cooperative society of workers in the tanning industry or in the manufacture of leather goods such as shoes, etc. The tanning industry also includes the registered cooperative society of shoe-shine workers. Out of these cooperatives, preference should be given to those which compose substantially or fully of members of such scheduled castes and scheduled tribes."

On 25/02/2002 , the Railway Board directed the registered cooperative society to enroll only such persons as members who are not member of any other registered cooperative society of workers in the tanning industry or in the manufacture of leather goods such as shoes, so as to avoid double membership. The instructions from the Railway Board made it mandatory for the Society to submit a copy of the Constitution of the Society alongwith the list of their members with their signatures and photographs while applying for the Contract.

7 On 24/04/2015, the Board, after taking review of the existing Policy decided to authorize Zonal Railways (General Manager) to frame their own policy guidelines for awarding of Shoe-shine Contracts at Railway Stations and the directions issued to the General Manager of all Zonal Railways were issued in supersession of all earlier policy guidelines in that regard.

This was followed by the formulation of Shoe-Shine Policy, 2018, by the Central Railway, Principal Chief Commercial Manager's Office, Chhatrapati Shivaji Maharaj Terminus, Mumbai

and it is this policy which is the subject matter of challenge in the present Writ Petition.

8 Described as Shoe-Shine Licence Policy , 2018, its preamble highlighted the objective of the Policy, as generation of employment opportunities to the weakest of weaker Society.

Giving the preface as regards the Policy dated 23/03/1999 alongwith the corrigendum/amendments to the said Policy, it is specified that the Railway Board on 24/04/2015 empowered the Zonal Railway (GM) to frame policy guidelines for awarding of shoe shine contracts at Railway Stations in their zonal jurisdiction. What is pertinent to note is Clause 1.3 and 1.4 of the Policy, which recorded thus :-

“1.3 Railway Board vide their letter 2006/TG-IV/8/21/WR dated 22/05/2009 advised Zonal Railway's to progressively discourage the practice of shoe-shine. The services presently available were temporarily extended on same terms and conditions. In view of above, the policy proposed will be applicable to old locations, presently under temporary extension, on initiation of fresh tender to said locations. In this regard addition to new locations where no such service is available presently and also requirement of additional numbers of such facility, if any, at stations where already this provision is available will be done.

1.4 The locations operated from years together and presently under temporary extension will be allowed to continue for a period of six months only to provide continuity of service during tender process on old terms and conditions and will cease on award of fresh license through open tender.”

The Policy of 2018 covered manual operation of shining of Shoes and necessary petty repairs to footwear items at stations on demand from passenger and the facility was to be provided at

A1, A, B and C category stations only, depending upon the need and traffic density at those stations.

Clause 3.0 which actually provided for the terms of Engagement of shoe-shine workers in the Policy reads thus :-

“3.1 The shoe shine license shall be awarded to the registered societies of shoe shine boys only. Co-operative societies of workers in the tanning industry or in the manufacture of leather goods will not be eligible to participate in such contracts. (Commercial Circular No: 111 of 2006).

3.2 Open Tenders on single packet will be invited from societies of shoe-shine workers for awarding of shoeshine contracts at stations. A copy of the constitution of the society should be submitted by the society along with a list of their members at the time of contract tendering.

3.3 While awarding the contracts genuineness of the participating societies should be checked by the division in order to protect the interest of genuine co-operative societies.

3.4 It is preferable that members of society desirous to be appointed as shoe shine worker at stations should fulfill the following criteria:-

(a) Age Limit. Minimum age should be 18 years.

(b) Medically fit to perform duty as per Railway's policy prescribed.

(c) Society should be able to produce a Police verification certificate highlighting that person employed is free from criminal back ground. The same should not be more than 6 months old from the date of calling of tender applications.

3.5 Responses received for the open tender will be screened by a committee as per new model SOP of October/2017 and amendment therean from time to time. Committee will evaluate and submit their recommendations to the accepting authority as per SOP.

3.6 Since open tenders will be invited for the first time existing license fee may be kept as anticipated earning potential for the locations, if there is no change, in numbers of shoe-shine boys with approval of Associate Finance. For all first time open tendering, anticipated earning potential arrived should have approval/vetting of Associate Finance. If there is no response, to any locations in open tender further notification on earlier approved anticipated earning (reserve price) may be initiated immediately without waiting for further Associate Finance vetting.”

Clause 4 of the impugned Policy prescribe the conditions related to license and Clause 4.1 provide that the Contract will be for a period of 3 years subject to review of performance during the currency of contract.

Staff employability was prescribed in clause 4.2 which reads thus :-

“4.2 Staff employability: A registered society shall enrol only such persons as members who are not a member of any other registered society of shoe shine workers. If it is found that double membership has been allowed by the society, the License of the society will be cancelled. No shoe shine boy below 18 years of age should be engaged for this purpose. Shoe shine worker employable at station will continue as shoe shine person once appointed subject to fulfilling necessary medical examination standards prescribed by Railway. The society will be permitted to give list of number of shoe-shine boys who will be utilised at the station to cover the requirements during working shifts and this will be approved by Railway administration. At any point of time, no excess shoe-shine persons will be utilised by licensee beyond the permitted numbers. Licensee/agency has the liberty to change/replace the shoe shine boys nominated for the station within the limit from the approved list. Any changes beyond this in shoe-shine boy's deployment at station will be with the proper prior approval of Railway administration. Any violation in this regard will be treated as breach of contract and action deemed fit will be taken by Railway administration.”

Clause 4.5 provided for medical examination of the Shoe-shine persons by the Railway doctor once in a year subject to payment of fees prescribed, whereas, Clause 4.6 set out the rate of shoe-shine work as below :

Plain Polish	:	Rs.10/-
Cream Polish	:	Rs.15/-

Clause 5 of the Policy was included as a provision for ‘License Fees’ which would be the offer given by the Society in the open tender notification, with a stipulation of Society depositing requisite license fee on quarterly basis with an escalation of 0.6% per annum during the currency of the contract in proportion to increase in rate of shoe policy.

In addition to the aforesaid clauses, the Policy also

comprised of a clause for security deposit, earnest money deposit (EMD) as well as forfeiture of EMD alongwith the punitive clauses.

Clause 12 of the Policy, permitted the Railways to terminate the Contract in case of continued non-compliance of agreement/service conditions by the licensee or due to non payment of license fee as per schedule after due notice. It was also made permissible for the licensee to seek termination of the contract by giving a notice period of minimum three months.

Clause 13.0 contemplated signing of an Agreement by the licensee within 21 days of the allotment letter and clause 13.2 provide that the licensee shall indemnify the Railways for the damages caused due to non-compliance of any statutory law, bye-law or service conditions.

9 Pursuant to the said Policy being formulated the Mumbai CST Division-Commercial/Central Railway issued a Tender Notice No.BB-CO-SS-CLUSTER-A, stipulating the eligibility conditions including the special technical/financial criteria. The bid document published by Mumbai Division on 25/01/2022 provided the key information as it invited bids for 'Provision of Shoe Shine Contract at Railway Stations as per Cluster-A for a period of 3 years at Mumbai Division under Single Packet System'. Instructions were also issued to the bidders regarding the downloading of tender forms and its submission.

10 The Tender Document (Shoe Shine Contract) prescribed the following eligibility criteria :-

- 1.1 Registered Cooperative Societies of shoe-shine workers only.
- 1.2 The Societies having outstanding dues on the date of opening of Tender are not eligible to participate.
- 1.3 The Society should not have been debarred/ blacklisted by any Railway Administration, Government of India or State Government or any Civic body on the date of opening of Tender.
- 1.4 The Cooperative Societies of workers in the tanning industry or in the manufacture of leather goods will not be eligible.

The selection process was stipulated thus :-

“3. The Tender process shall be single packet system. Tenderer has to quote his price bid in appropriate column provided on IREPS Module on the E-Tender as a whole for the cluster (As per the tender notice) and the contract will be awarded to the Highest bidder for the cluster.”

The documents to be submitted with the Tender included the copy of the Constitution of the Society alongwith the list of members at the time of Contract as well as the Adhaar card of the shoe shine boys to be engaged. It was imperative for the tenderer to quote the price bid in the prescribed format and separate E-tender was to be submitted for each cluster and all documents and EMD was to be furnished separately qua each cluster.

The Tender document was also accompanied with proforma of the Master Agreement Governing Contract, to be signed on the Contract being awarded to the successful bidder.

11 The Petitioner, claiming to be the only Cooperative Society carrying out the activity of polishing shoes of passengers at Chhatrapati Shivaji Maharaj Terminus, Masjid Bunder Railway Station, Sandhurst Road Railway Station, prior to 1985 till the current date raise a challenge to the new Policy as well as the tender process initiated pursuant thereto. According to the

Petitioner-Society, it is continuously engaged in the activity of shoe polishing of the passengers of Railways at earmarked railway stations and out of its 35 members, 19 are employed at CSMT, 6 at Masjid Bunder Railway Station and 5 at Sandhurst Road Railway Station.

It is the claim of the Petitioner that the Society is continuously engaged in the work of shoe shine through its workers and the livelihood of the members of the Petitioner-Society is dependent upon this activity.

The Petition is accompanied with true copy of the list of working members of the Society at earmarked Railway Stations and also also the photo identity cards issued to the members.

12 The claim of the Petitioner/Society is staked in the Petition through appropriate pleadings and is urged before us by Ms. Jane Cox, the learned counsel for the Petitioners, by submitting that, the members of their society are from the lowest strata and substantially from scheduled caste and scheduled tribe community and since the very first contract, it was the policy of the Railway Administration to employ the above mentioned communities. However, from time to time, Railways Administration amended its license policy in such a way that it gradually watered down the very foundational welfare oriented object of policy. Eventually, at present latest Shoe-Shine Policy 2018 has become a threat to livelihood and detrimental to the right to life of the members of the Petitioner Society. At the moment, members of the Petitioner are accustomed to boot polishing work because they are carrying out this activity for a

substantially longer period and it is not plausible on behalf of the Railway Administration to make a way by introducing new policy rendering members of the Petitioner Society jobless and deprive them of their livelihood.

13 Ms. Cox urge that Respondent No.3, in consultation of the Railway Board, changed its Shoe Shine Policy from time to time. As per the Policy of 1999, dated 23/09/1999 registered society was to become eligible for the Shoe Shine Contract, as per clause 1 and 2.5, it was mandatory that the substantial members of the registered society shall be preferably from Scheduled Caste or Scheduled Tribe or weaker section of the society. In absence of the above-said clause, registered cooperative societies would not be eligible for Shoe Shine Contract. The Petitioner was complying with alike clause since the very beginning and based on their performance, service, and dedicated efforts they are as on today continuously in service of passengers of the Earmarked Railway Stations.

That as per the Policy of 1999, Clause 2.21, Railway Board had delegated to the Petitioner responsibility for observance Minimum wage Act and same has been complied with by the Petitioner Society till today.

14 The objection raised in the Petition is about the Shoe Shine Policy, 2018 and it is the claim of the Petitioners that the Policy is prejudicial to the welfare and livelihood of the members of the Petitioner-Society, who have been rendering boot polish service for more than 3 decades. The Respondents are accused of

framing 2018 Policy without adhering to the earlier policy guidelines and in complete disregard to the object of framing of Shoe Shine Policy .

15 According to the Petitioner/Society, subsequent to the introduction of the said Policy in 2018, on receipt of the representation from the Maharashtra Railway Boot Polish Union, Respondent No.2 had decided to float tender in two stages, in first stage tender to be invited for stations, where no Shoe-Shine boys are engaged and second stage being to invite tenders at stations where already shoe shine boys are employed. In compliance , Respondent No.2 invited open tender for Railway Stations designated cluster A and B which include the workplace of the Petitioner-Society by its advertisement dated 25/01/2022, which posed a threat to the livelihood of the members of the Petitioner-Society. According to the Petitioner, Shoe Shine Policy was aimed at generating employment amongst the lowest strata of the Society and it intended to promote societies administered by members from Scheduled Caste and Schedule Tribe community and weaker sections and it also ensured payment of minimum wages to the Shoe Shine workers.

In the Petition it is categorically averred that the Maharashtra Railway Boot Polish Kamgar Sangh had sought termination of the contract of Petitioner Society on the ground of its de-registration by the Assistant Registrar of the Co-operative Societies which order was passed without adhering to the principles of natural justice and, therefore, the Petitioner approached the City Civil Court, Mumbai and by order dated

25/01/2022 passed in Notice of Motion No. 69/2022, the Petitioner was protected as the Defendants/Railway was temporarily restrained from preventing the Plaintiff and its Shoe Shine Boys from conducting the business on CSMT, Masjid Bunder and Sandhurst Road Railway Stations, till final disposal of the Suit or selection of fresh service provider for Shoe shine contract by following due tendering process. It was also clarified that Defendants were not prevented from terminating the services of the Plaintiff/Society in favour of the fresh service provider by following tender process, if the Plaintiff is not selected in the process.

It is the specific statement made before us that in the wake of this order, the Petitioner is conducting its business at CSMT, Masjid Bunder and Sandhurst Railway Stations.

16 On hearing Ms. Jane Cox, the learned counsel representing the Petitioner, we find that she is extremely critical about the approach of the Respondents, as she would submit that the earlier contract policy of 1999 contemplated preference to those Cooperative Societies of workers to compose substantially or fully of members of Scheduled Caste or Scheduled Tribe. Apart from this, it is her specific contention that by virtue of clause 2.21, the responsibility of observance of Minimum Wage Act was enforced on the cooperative society to whom the contract is awarded, but both the aforesaid requirements are done away in the 2018 Policy, as there is no preference given nor minimum wages are ensured.

Instead, according to Ms. Cox, under the new Policy, the Shoe Shine License shall be awarded to the registered societies of shoe shine boys and cooperative societies of workers in tanning industry or in manufacture of leather goods are not eligible to participate in such Contracts. She would submit that there is no preference to the weaker section or the societies substantially involving the members of Scheduled Caste or Scheduled Tribes and this has defeated the whole purpose of introducing the Policy.

According to her, the present Policy fail to take into consideration the welfare of the members of the Petitioner who are into the Boot Polish business since more than 3 decades and it her specific contention that rendering services for a considerable period of time, without any benefit being given to their experience, if Tenders are invited, with no provision for preference to Society like that of Petitioner, the members of the Petitioner Society would be losing their source of livelihood as for all these years they have only engaged themselves in the activity of shoe polish and cannot adjust themselves in any other avocation or trade. She would earnestly submit that the members of the Petitioner-Society do not have other means to earn and they have to depend completely upon boot polish work for their sustenance.

She would also submit that some members of the Petitioner Society are at advance age and depriving them of their source of livelihood at this age would be detrimental to their interest and, therefore, the Court must intervene and set aside the Policy of 2018 or direct Respondent No.1 to reconsider the said Policy by ensuring that the livelihood and job security of the members of

the Petitioner Society is protected.

She also insist on grant of prayer clause (c) of the Petition, which seek a direction to Respondent No.1 to introduce provisions for welfare of the Society, which has been engaged at earmarked Railway Stations for more than a decade and their license may be simply be renewed instead of their participation in the tender process.

17 The reliefs sought in the Petition receive opposition from the Railway and Mr. Pandian representing it, has placed reliance upon the two Affidavits, the first Affidavit being filed by T. Sushma, Senior Divisional Commercial Manager of Central Railway on 14/03/2022 and subsequent Affidavit filed by M. L. Meena, Divisional Commercial Manager of Central Railway on 11/08/2022.

According to Mr. Pandian, there is no arbitrariness in the Policy and he would vehemently submit that the impugned policy introduces a transparent selection process of license by public tender system and assertively he would submit that the Petitioner cannot claim vested or indefeasible right to continue with the Contract indefinitely.

According to Mr. Pandian, the license was granted to the Petitioner Society around 1985 for a period of 3 years and it was renewed upto 30.11.1988 and further in the year 1989. He would submit that the Railway Board issued a Policy on 23/03/1999, laying down the strategy of the Railways to generate employment opportunities for persons belonging to lowest strata, which was supplemented by a corrigendum issued on

23/11/2000 which aimed at transparent selection process. He would submit that in the circular issued on 25/02/2002, the Railway Board accepted the process of inviting bids station wise and in 2004 the circular of the Railway Board indicated inviting bids for the purpose of ascertaining license fee and this suggestion was accepted by Ministry of Railway and necessary instructions were issued.

By relying upon the Circular, it is the contention of Mr.Pandian that the instructions/guidelines contained therein go to suggest that in the past Shoe Shine Contracts were to be awarded by calling bids from the Society. He do not deny that the Railway Board in subsequent circular clearly expressed that the entire system and practice of Shoe Shine shall be progressively discouraged and, therefore, in its Commercial Circular No.25/2015, which was issued in supersession of the earlier Policy, authorizing the Zonal Railways to formulate their own policy guidelines for awarding Shoe Shine Contracts at Railway Stations.

According to him, the operation of Shoe Shine activity of the Petitioners was continued purely on temporary basis and Central Railway issued the detail policy guidelines in 2018, with the aim and object of generating employment opportunities to persons belonging to weaker section and at the same time achieving the object by transparent selection system among the same class of people and, therefore, it is his emphasis that the Policy aimed at transparent procedure to be adopted.

It is his specific contention that first stage tenders were floated, where no Shoe Shine boys were deployed and this

included Cluster - I Panvel, Cluster - II, Kalwa, Kopar, Diva and Cluster - III, Ulhasnagar, Ambernath etc. and contracts were awarded. When the time came for tender at second stage, on account of Covid 19 Pandemic, it could not be processed.

It is the specific contention of Mr. Pandian that when the tender is floated, it is open for the Petitioner Society to participate alongwith other cooperative societies involved shoe shine activities, as there are many such cooperative societies registered with the Registrar of Cooperative Societies, who had made representations seeking invitation of tenders enabling them to participate.

18 Mr. Pandian would place reliance upon the specific stand adopted in the first Affidavit in Reply of the Railway wherein it is stated thus :-

“5. I say that, if the license of existing societies is kept renewed for years together, the other societies will never get any opportunity of their livelihood. Such renewal would be deprival of their right of equal opportunity. The Petitioners are also at liberty to participate in Tender process if they desire to continue by competing with others. Renewal of existing societies would lead to monopolies and may also lead to corrupt practices. Allotment of contracts through open tender system would be transparent than the renewal of existing society.

6. I must also inform this Hon'ble Court that the subject tender which was invited through on-line mode on Indian Railway e-procurement System & opened on 02.03.2022, did not receive any response, for the reasons, on enquiry, revealed that the members of the Societies are not familiar with online system & also not much literate to understand the Tender Document published in English. Therefore, fresh Tender through manual mode with the Hindi Translation of the Tender Document is being published with the opening date of 06.04.2022.”

19 Responding to the query about further steps taken, it is the contention of Mr. Pandian that the objective of the earlier Policy as well as the present Policy, is to generate opportunities for

persons belonging to lower strata of the society, though the earlier policy contained a preference to be given to those, which composed substantially or fully of members of Scheduled Caste or Scheduled Tribes.

However, he would submit that this was done away by Circular No.111 dated 22/12/2006 itself and the option of giving preference to the Society of tanning industry forming substantially or fully of ST/ST members is not in existence in 2006.

According to him, the Petitioner Society was eligible to participate in the selection process under the Policy of 2018 which has provided that each society shall submit an Affidavit giving the composition of its members. It is his specific contention that the Shoe Shine contract can only be awarded to those Societies whose members are from weakest of weaker section of society, which may include General as well as Scheduled Caste or Schedule Tribe community.

20 In the background facts, we have noted the grievance of the Petitioner, a Co-operative Society, which is engaged in the activity of polishing of shoes of passengers at earmarked railway stations. It is also noted by us that they are indulged in the said activity since 1985 and though the Policy of the Respondents was revised from time to time but the tenders could not be finalized and hence they continued to carry out the work of shoe polishing and allied activities even till date.

In the Scheme formulated by the Railway, a Policy existed in 1999, which was strategically formulated to generate

employment opportunities for the persons belonging to the lower strata of society indicating that the Shoe-Shine licenses would be awarded to the Co-operative Societies of workers in tanning industry or those engaged in manufacturing of leather goods such as shoes etc.

The Policy contained a preference clause for those Societies which composed of substantially or fully, the members of Scheduled Castes and Scheduled Tribes.

The aforesaid Policy, however, received amendment by a corrigendum issued by the Railway Board on 23/11/2000, by clarifying that the tanning industry shall also include the registered Co-operative Society of Shoe-Shine workers.

21 On 22/12/2006 in regard to the Shoe-shine Contracts at railway stations, a new circular was issued, revising the existing policy by providing that the Shoe-shine licenses shall be issued henceforth to the Societies of Shoe-shine boys only, to the exclusion of the workers in tanning industry or in the manufacture of leather goods.

At stations where Societies have been working for more than 10 years, the Contract of the existing licensee was directed to be renewed subject to their satisfactory performance and payment of license fee as may be fixed. However, even this Policy of 2006 contain a specific stipulation, which reads thus :

“The Railway may, however, invite tenders from Society of Shoe-shine workers for Award of Shoe-shine Contracts at stations where no Society is engaged in boot-polish presently and if the bid accepted at stations where tenders have been invited is more than the reserved price, fixed at stations where tender was not invited, the bid which has

been accepted will be applicable to the Societies working at stations, where tenders have not been invited and license fee shall be charged accordingly”.

22 Then came a strategic decision of the Railways somewhere in 2009, when the Railway Board clarified that it was of the view that the entire system and practice of shoe-shine should be progressively discouraged though the existing policy on the subject was continued. This resulted in a strategic decision being taken that the Zonal Railways (General Manager) shall frame their own Policy for allowing Shoe-shine contracts at railway stations superseding all earlier policy guidelines.

The impugned Policy of 2018 is, therefore, framed by Central Railway, CST, Mumbai unlike the earlier Policies which were framed by the Railway Board, Government of India, Ministry of Railways.

The Shoe-shine Policy of 2018, keeping in view the earlier prevailing Policies aimed at generation of employment opportunities to the weakest of weaker society, but it do not contain any specific preference to the Societies comprising of members of Scheduled Caste or Scheduled Tribe, as was provided in the earlier Policy. Now the new Policy contemplate that Shoe-shine license shall be awarded to the registered societies of Shoe-shine boys and since the workers in tanning industry or engaged in manufacture of leather goods were already excluded by the Circular of 2006, they stand excluded. However, the Policy now involves open tender system from the Societies of Shoe-Shine workers with the specification being prescribed about age limit as well as medical fitness and police

verification certificate so as to discourage entry of any person with criminal background.

Since the open tenders were invited for the first time, the existing license fee was kept as estimated earning potential for the locations, if there was no change in number of Shoe-shine boys with the approval of associate finance. The contract to be awarded, contemplate the period of 3 years subject to review of performance during currency of Contract with specific clauses being provided for staff employability and even the rate of Shoe-shine work as well as license fees as specifically fixed with also stipulation of deposit of money by way of security deposits and earnest money deposit .

23 In the stand adopted by the Respondent/Railways, it is informed that it is not only the Petitioner/Society which is comprised of Shoe-shine boys, but rather there are many such Societies which are registered and they have repeatedly made request to the Railways for having an open competition and we find the Railways is justified in inviting the tenders, as the Petitioner Society cannot be the sole beneficiary of the Scheme. The members of the Petitioner Society are engaged as Shoe-shine workers for a considerable length of time and it is true that they are not fit for taking up any other avocation or occupation and definitely those who intend to continue with the same, cannot be deprived of their livelihood merely because the Contract would be gained by any other Society.

We, therefore, direct the Railways to give some weightage to those Co-operative Societies of Shoe-shine boys who have

experience of working in the past, but definitely that do not mean that others/fresh bidders are never allowed to compete with the Petitioner Society as it would amount to creation of a monopoly.

We also do not find merit in the contention of the Petitioner Society of doing away with the preference in respect of co-operative society, whose substantial or all members are scheduled caste or scheduled tribe, as we find that the bottom line of 2018 Policy is also to generate employment opportunity for the persons belonging to lower strata of the society and that may include members of scheduled caste and scheduled tribe, but not merely on the basis of they belonging to a particular caste, but because they are belonging to lower strata of society.

24 We find that the Railways has adopted a mechanism of tender process, which in our view shall ensure transparency in the process and since we are informed that there are other Co-operative Societies of Shoe-shine boys which are now registered, every one will be entitled for participation in an open, fair and documented process and each one of them will have their own level playing field skill, and since ultimately the one who bids for a larger amount of license fee shall be awarded the Contract for a period of 3 years which shall be subject to further renewal subject to its performance.

The tender process which ensure transparency, openness and fairness, also has the effect of curbing nepotism and corruption and we welcome the step taken by the Railways for adopting a more transparent procedure for allotting the Contract/ Shoe-shine license to the registered society of Shoe-

shine boys only. The adoption of open tender in single packet inviting applications from the societies of shoe-shine workers for awarding the shoe-shine contract at stations will afford equal opportunity to all those who are similarly situated and the participation of the Societies shall be tested which shall include the qualification of its members, and their experience as the tender process involve screening by a Committee which is empowered to evaluate and submit its recommendation to the accepting Authority as per the standard operating procedure.

25 Though Ms.Cox has vehemently asserted before us that the Petitioners are likely to loose their jobs, as its members have been engaged in the activity of shoe-shine for a considerable length of time and it is quite possible that their livelihood depend upon the same, but at the same time, we must also keep in mind that it is not only they who are entitled to get the Contract as there are other younger people who are eager to earn a livelihood from the said avocation, as they may also belong to the weaker strata of society and definitely in such a scenario there has to be a competition, where opportunity is made available to each of the participant and therefore we do not find any flaw in the Policy formulated by Respondent No.1 on 27/02/2018 on both counts; firstly that there is no special preference given to a Society comprising of largely or wholly members of scheduled caste or scheduled tribe or that because the Petitioners are the members of the Society and are are working for a considerable length of time, and therefore no other entity/ individual is allowed to take their job.

On both counts since we do not find any arbitrariness on part of the Railway in shunting the claim of the Petitioners and in fact it is quite possible that considering their experience, and exposure to the trade, the Petitioner Society may emerge the successful bidder to the exclusion of others, but according to us, every such co-operative society of Shoe-shine boys, must get an equal opportunity to compete with the Petitioners, as the Petitioner cannot claim monopoly of the Petitioners to gain the Contract at the stations, on which they are presently working.

It is open for the Petitioner Society to participate in the tender process and compete with others in the fray, though we find that considering their experience and performance in the past, they may gain an edge over others and we direct the Railways to consider the past experience of the Petitioner Society for at least those stations on which they are already discharging the shoe polishing contract.

26 We have also noted that the impugned Policy has done away with the requirement of providing minimum wages to the workers/employees engaged by the Contractor and we do not approve of the same. We, therefore, direct Respondent Nos.1 and 2 to ensure that while fixing the tender price or allotting the contract, one of the condition subject to which the contract shall be awarded shall be of payment of minimum wages as per the applicable law to the members of the society. In fact, we also direct Respondent No.2 to include this as a condition in the tender itself.

27 With the aforesaid observations, finding no merit and substance in the contentions advanced, we dismiss the Petition, but expect Respondent Nos.1 and 2 to keep in mind the observations made by us as regards the Petitioner Society while it consider its claim, if the Petitioner society decide to participate in the tender process, but we make it clear that if the Petitioner Society fail to participate, in that case the Railway Administration is at liberty to proceed with the tender process, in accordance with its Policy, formulated by the Central Railways in form of 'Shoe-Shine License Policy, 2018'. We also direct that payment of minimum wages to the members of the Society engaged by the Society towards accomplishment of the Contract shall be ensured.

[MANJUSHA DESHPANDE, J.]

[BHARATI DANGRE, J.]