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APHC010102722017

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3332]
(Special Original Jurisdiction)

MONDAY, THE 2nd DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 22264/2017 along with W.P.No.30456/2017

Between:

P Amanulla Khan, Prakasam Dist **...PETITIONER**

AND

Secy Ministry Of Railways New Delhi 3 Others and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. VAJJHALA SATYANARAYANA PRASAD

Counsel for the Respondent(S):

1. M UMA DEVI (CENTRAL GOVT COUNSEL)

The Court made the following COMMON ORDER:

Inasmuch as the petitioner in both the cases is one and the same and since both the cases are interlinked, they are heard together and are being disposed of by this common order.

2. The facts of both the cases in brief are as follows:

(a) The respondent No.3 issued proceedings No.GNT/C79/PF Stall/GID, dated 20.4.2005 granting Platform Stall License to the petitioner at Giddaluru Railway Station for a period of five years commencing from 24.4.2005 to 23.4.2010 subject to payment of the provisional license fee of Rs.10,000/- per annum and security deposit of Rs. 5000/-, besides paying the water and electricity consumption charges on the basis of actual consumption as fixed by the administration from time to time. In accordance with the terms of the contract, the petitioner has constructed the platform stall at his cost as per the specifications given by the Department and eking out his livelihood from the income generated from the subject stall. An agreement dated 18.5.2005 was also entered into for sale of fruits, sweet meat, tea, coffee and other articles within the railway premises. The 3rd respondent has renewed the license for a further period of five years from 24.4.2010 to 23.4.2015 vide proceedings dated 19.7.2010, by directing to pay Rs.60,000/- towards annual provisional license fee for that period and that fee should be paid one month in advance before expiry of the annual contract period.

(b) Later on, the respondent No.3 has issued proceedings dated 18.01.2017 extending the license for a period of three months from 24.1.2017 to 23.04.2017 on condition of paying Rs.17,400/-.The petitioner has submitted a representation dated 27.4.2017 requesting the 3rd respondent No.3 to grant further extension of my license and obtained acknowledgement.

(c) In the absence of the petitioner and without giving any prior notice, the Chief Catering Inspector has sealed the stall premises and the Railway authorities attempted to call for the tenders to displace several licensees (including petitioner), therefore, those licensees and the Welfare Associations have filed batch of writ petitions before this Court seeking a direction to renew the license of the existing license holders and this Court has disposed those writ petitions through an order dated 16.8.2013 arriving at a conclusion that the Policy 2010 did not differentiate among the licenses and they are entitled for renewal of the licenses. Assailing the same, the Railway Department filed W.A.Nos.1573 to 1575 of 2013 before this Hon'ble Court, which confirmed the judgment of the learned single Judge. Thereafter, the railways have filed Civil Appeal Nos. 618 - 620 of 2016 before the Hon'ble Supreme Court, which was also dismissed on 29.01.2016 confirming the judgment of this court wherein it was observed that only those licensees may be eligible for renewal of their licenses who can declare on affidavit that they do not have the license of more than one shop or kiosk in their name or benami license at the railway station with periodical reasonable increase of license fee.

(d) Contrary to the said judgment of supreme court, as the respondents are taking steps to dispossess the licensees (including petitioner), again a writ petition vide W.P.No.25400/2016 was filed seeking a direction to renew their licenses wherein this court has granted an interim order dated 20.10.2016 directing the respondents not to dispossess the members of the petitioners association from their respective shops and stalls which was extended from

time to time. Later, as the said interim order was not extended, pending consideration of the said writ petition, the petitioners association filed W.A.No.1451 and 1452 of 2016 which was disposed of through a common order dated 27.12.2016 directing that upon the petitioners filing an affidavit and unconditionally delivering possession of all shops-kiosks except one, they shall be retain only one shop or kiosk to carry on their business. It was further stated that whether the petitioners therein are entitled to be granted license even for one shop-kiosk shall be considered when the writ petition is finally heard.

(e) Pursuant to the above judgment dated 27.12.2016, the petitioner approached the 2nd respondent with an affidavit that he is not having any other stall except the subject stall in his name or in benami name and willing to pay the reasonable license fee. Despite the same, the respondents are not permitting the petitioner to carry on his business and seized the shop and not even receiving the said affidavit of the petitioner on the ground that there is no specific direction from this Hon'ble Court directing them to receive such an affidavit. Aggrieved by the said action of the respondents, the petitioner filed W.P.No.22264 of 2017 seeking a direction to the respondents to renew the petitioner’s license in respect of the subject shop. In the said writ petition this court has passed an interim order dated 06.07.2027 directing to maintain ‘Status Quo’ which was extended for a period of eight (08) weeks on 21.08.2017. Inspite of the same, the 3rd respondent has issued tender notification No.GNT/C/79/GMUs/D&E/17 dated 08.08.2017 inviting tenders in

respect of the various catering stalls for a period of five years wherein the subject stall/shop of the petitioner was notified at Item No.3. Questioning the said tender notice, the petitioner filed W.P.No.30456 of 2017.

3. Heard Sri VSR Anjaneyulu, learned Senior counsel appearing for the petitioners and Smt Uma Devi, learned Central government counsel appearing for respondents.

4. Sri VSR Anjaneyulu, learned Senior counsel for the petitioner submitted that, He further submitted that, by virtue of the judgment of the Apex Court it was clear that those licensees, who declare on affidavit that they do not have more than one shop or kiosk in their name or benami names, are eligible for renewal of their licenses with periodical reasonable increase of license fee. He further submitted that, in the present cases, though the petitioner is ready and willing to submit an affidavit to that effect, the respondents are neither receiving it nor considering his case for renewal, contrary to the said judgment. He further submitted that, this court has protected the petitioner's interest by granting Status Quo on 21.08.2017 but the respondents, pending writ petition vide No.22264 of 2017, has issued tender notification dated 08.08.2017 notifying the petitioner's stall as item no.3, which is illegal and unsustainable. He further submitted that, if the tenders are finalized, the petitioner will be put to suffer irreparable loss and hardship since he is eking out his livelihood on the very subject stall. In support of his contentions, he relied on the judgment of the Apex Court in ***Senior Divisional Commercial***

Manager, South central railways & others Vs S.C.R.Caterers, Dry fruits, Fruit Juice Stalls welfare association and another[1]and accordingly prayed to allow the writ petitions.

5. Smt Uma Devi, learned Central government counsel appearing for respondents while relying on the contents of the counter affidavit submitted that, the license granted to the petitioner to run Catering Stall at Giddalur Railway Station had expired on 23-04 2015 and the petitioner was allowed to run the stall only on temporary extension only as a stop gap arrangement till 23.04.2017, upon payment of proportionate license fee. She further submitted that, at the time of considering temporary extension, it was noticed that, one warning letter and penalties, on more than eight(08) occasions have been imposed on the petitioner's subject stall. She further submitted that, the clause 17 of the Catering Policy, 2010 do not permit any renewal of license if the licensee attracts fines / warnings on more than five occasions and as per item No. 17. 1 of the policy, renewal will be considered on the satisfactory performance of the licensee during the tenure of the contract, therefore, in view of petitioner’s poor performance, no extension was granted to him. Further, as per item No. 17 of the catering policy - 2010,the licensee must apply for renewal, minimum 6 months in advance before expiry of the contract, but the petitioner never submitted his application for renewal before six months of expiry of the license. Therefore, the petitioner cannot claim the right of renewal which he never asked.

[1] (2016) 3 SCC 582

She further submitted that, the petitioner deliberately concealed the above facts and is misleading this Court by referring the judgments which are not at all relevant to the present case by saying that he is one of the parties to the apex court judgment, in fact, the petitioner is not at all a party in the said case. The petitioner had not filed any cases, except W.P. No. 22264 of 2017 wherein this court has granted status quo on 06.07.2017. She further submitted that as per the guidelines of Head Quarters, a tender notice dated 08.8.2017 has been issued inviting sealed bids for setting up of catering stalls at 25 locations including platform stall at Giddalur wherein highest bidder was also finalized but letter of acceptance is kept pending due to the status quo orders passed by this court. Therefore, no indulgence need be shown on the petitioner since he is guilty of suppression of facts and that the petitioner has not made any application as per the Catering Policy, 2010. Therefore, the writ petitions are devoid of merits and liable to be dismissed.

6. In reply, learned senior counsel for the petitioner contended that, by virtue of the judgment of the Apex court dated 29.01.2016, a commercial Circular No.22/2017 dated 15.03.2017 came to be issued and by virtue of the same, the Catering Policy, 2010 is no more available to the petitioner and the petitioner is entitled for renewal of the license upon submitting an affidavit declaring that he does not have license of more than one catering stall and the petitioner is always ready and willing the submit the same.

7. Perused the record and considered the submissions of both the learned counsel.

8. The prime grievance of the petitioner is that without considering his case for renewal of license to the subject catering stall, the respondents have issued tender notification dated 08.08.2017 notifying the petitioner's subject stall as item no.3.

9. The contentions of the respondents are that, the petitioner has not made any application for renewal before six months of the expiry of the license, as per the Catering Policy, 2010 and that, one warning letter and penalties on more than eight (08) occasions have been imposed on the petitioner's subject stall, as such his license cannot be renewed by virtue of Clause 17 of Catering Policy, 2010.

10. The learned senior counsel relied on a commercial Circular No.22/2017 dated 15.03.2017 and contended that the Catering Policy, 2010 is no more available and the petitioner is entitled for renewal of the license upon submitting an affidavit declaring that he does not have license of more than one catering stall.

11. A perusal of Point No.(i) in the circular dated 15.03.2017 indicates that it begins with the words, *"Notwithstanding any provision in Catering Policy 2010 and earlier catering policies."* This clause makes it clear that, the affidavit requirement introduced by the said circular, would prevail over any inconsistent provisions contained in the Catering Policy, 2010, or earlier catering policies, including those that may otherwise permit a person to hold multiple catering licences/leases. However, the overriding effect of this clause

cannot, by itself, abolish the prescribed application deadline or any other procedural requirement, unless the circular expressly provides for such an exemption. Therefore, the overriding effect of the circular must be confined to the specific requirement introduced therein and cannot be extended to dispense with an independent procedural requirement that has not been expressly waived. Therefore, the contention of the learned senior counsel has no force.

12. Moreover, the two grounds which are raised by the respondents with regard to not making an application for renewal before six months of the expiry of the license and that, one warning letter and penalties on more than eight (08) occasions have been imposed on the petitioner's subject stall, were not countenanced by the petitioner.

13. Clause 17 of the Catering Policy, 2010 issued vide Commercial Circular No.35 of 2010 dated 21.07.2010 which is relevant for the adjudication, is hereby extracted:

> ***"17. RENEWAL:***
>
> *Renewal will not be a matter of right. The licencee must apply for renewal minimum 6 (six) months in advance before the expiry of the contract. Renewal will be based on the following: -*
>
> *17.1 Satisfactory performance of the licencee during the tenure of the contract. An imposition of fine/warnings on more than 5 occasions will result in rejection of the application for renewal."*

14. In view of the above, the petitioner has to apply for renewal minimum 6 (six) months in advance before the expiry of the contract and the renewal will

not be a matter of right. It also indicates that, based on the satisfactory performance of the licencee during the tenure of the contract, the license will be approved and that an imposition of fine/warnings on more than 5 occasions will result in rejection of the application for renewal.

15. In the present cases, the petitioner was imposed one warning letter and more than 5 penalties, which makes his application rejected, if any made as per the above Clause 17. However, the petitioner could not show any material evidencing that an application was made to the respondents for renewal of license, minimum 6 (six) months in advance before the expiry of the contract. In view of the same, this court is of the firm opinion that the petitioner could not made out any ground warranting the interference of this court, therefore both the writ petitions are meritless and deserves dismissal.

16. Accordingly, both the writ petitions are ***dismissed***. No costs.

Miscellaneous applications, pending if any shall stand closed.

JUSTICE RAVI CHEEMALAPATI

BRS