**IN THE HIGH COURT FOR THE STATE OF TELANGANA**
**AT HYDERABAD**
**(Special Original Jurisdiction)**

WEDNESDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL**

**WRIT PETITION NO: 45336 OF 2016**

**Between:**

Mohammed Khaja, S/o Late Mohd. Yousuf, Aged about 39 years, Occ ; Business, R/o H. No. 17-3-96, Rein Bazer, Yakuthpura, Hyderabad .

**.....PETITIONER**

**AND**

1. Union of India, Rep by its General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. Chief Commercial Manager, South Central Railway, Rail Nilayam, Secunderabad.
3. The Senior Divisional Commercial Manager, Hyderabad Division, Hyderabad Bhavan, South Central Railway, Secunderabad.

**.....RESPONDENTS**

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass an order or direction more particularly one in the nature of Writ Mandamus to declare action of the Respondent No. 3 not consider the Representation/legal notice made by petitioner dt. 24-6-2016 and 10-11-2016 as illegal, arbitrary and unconstitutional and consequently direct the Respondents to refund the EMD amount of Rs. 1,00,000/- to Petitioner.

**I.A.NO:1 OF 2016 (WPMP.NO:55882 OF 2016)**

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No.3 to refund the EMD amount of Rs. 2,83,420/- to the Petitioner and pending disposal of the writ petition.

**Counsel for the Petitioner : SRI NAMBI KRISHNA**

**Counsel for the Respondents : MRS N.V.R.RAJYALAKSHMI, LEARNED STANDING COUNSEL REPRESENTING SRI N.BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA**

**The Court made the following ORDER**

**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

**THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL**

**WRIT PETITION No.45336 of 2016**

**CNR No.HBHC010210282016**

**Date:04.11.2026**

Between:

Mohammed Khaja

..Petitioner

And

Union of India,
Rep. by its General Manager,
South Central Railway,
Rail Nilayam, Secunderabad and others.

..Respondents

**ORDER**:

This writ petition is filed seeking the following prayer:

> "...to pass an order or direction more particularly one in the nature of Writ Mandamus to declare action of the respondent No.3 not consider the representation/legal notice made by the petitioner dated 24.06.2016 and 10.11.2016 as illegal, arbitrary and unconstitutional and consequently direct the respondents to refund the EMD amount of Rs.1,00,000/- to the petitioner and pass..."

2. Heard Mr.Nambi Krishna, learned counsel for the petitioner, Mrs.NVR Rajyalakshmi, learned Standing Counsel representing learned Deputy Solicitor General of India appearing for the respondents. Perused the record.

3. Learned counsel for the petitioner submits that respondent No.2, invited sealed tenders *vide* Tender Notification No.Y/C/432/Leasing/Tenders/2015-2016, dated 28.03.2016, for leasing 4 tonnes of open space in RSLR-I of Train No.12707, AP Sampark Kranti Express, running from Kachiguda (KCG) to Hazrat Nizamuddin (NZM), for three days a week, i.e., Monday, Wednesday and Friday, for a period of three years from 01.07.2016 to 30.06.2019. Pursuant thereto, the petitioner submitted a sealed tender for allotment of the said space and the respondents, having considered the same, awarded the contract to the petitioner on 23.05.2016. Learned counsel further submits that, pursuant to the said award, the respondents directed the petitioner to deposit an Earnest Money Deposit (EMD) of Rs.1,00,000/-, which the petitioner duly deposited. However, no written lease agreement was executed between the parties. He further submits that, owing to the slack season, the holy month of Ramzan and the heavy competition from the existing leaseholders of Parcel Vans attached to AP Sampark Kranti Express and Karnataka Sampark Kranti Express, the petitioner was unable to commence the loading operations from 01.07.2016. Accordingly, the petitioner submitted a representation dated 24.06.2016 to respondent

No.3, seeking permission to commence the loading operations from 20.07.2016 after completing the requisite commercial formalities. Learned counsel further submits that respondent No.3 neither considered the said representation nor communicated any decision thereon. Instead, the respondents proceeded to issue a fresh Tender Notification bearing No.Y/C.432/Leasing/Tenders/2016-2017, dated 14.09.2016, without refunding the EMD amount of Rs.1,00,000/- deposited by the petitioner. Learned counsel further submits that, having received no response from the respondents, the petitioner got issued a legal notice dated 10.11.2016 through his counsel, requesting the respondents to refund the EMD amount. However, the respondents neither considered the said legal notice nor refunded the EMD amount. He further submits that, except for allotment of the aforesaid open space for a period of three years, no lease agreement containing the terms and conditions governing the lease was executed between the parties.

4. Learned counsel contends that the action of the respondents in withholding the EMD amount of Rs.1,00,000/-, despite not executing any lease agreement and without

considering the petitioner's representation and subsequent legal notice, is illegal and arbitrary. Hence, the present writ petition.

5. On the other hand, learned Standing Counsel for the respondents submits that, in response to the representation dated 24.06.2016 submitted by the petitioner, a notice *vide* No.Y/C.432/Leasing SLR/12707/2016-17, dated 08.11.2016, was issued to the petitioner, calling upon him to submit his explanation within seven days from the date of receipt of the said notice. However, the petitioner failed to submit any explanation. She further submits that, on 07.12.2016, as the petitioner had failed to comply with the terms and conditions stipulated in the letter of award and notice dated 08.11.2016 and had also failed to submit his explanation, the contract for leasing 4 tonnes of FSLR space in Train No.12707, Kacheguda–Nizamuddin Express, which had been awarded to the petitioner for a period of three years with effect from 13.06.2016, was terminated, duly forfeiting the Security Deposit of Rs.2,82,420/-. The petitioner was also debarred from participating in any tender for a period of two years, in terms of Clause 8 of the letter of award. She further submits that the petitioner had filed another writ petition, *vide* W.P.No.41545 of 2016, seeking a direction to respondent No.3 to refund the Security Deposit

amount of Rs.2,83,420/-. This Court, vide order dated 30.11.2016, disposed of the said writ petition, granting liberty to the petitioner either to challenge the same by way of a separate writ petition or to submit his reply to the show-cause notice issued by respondent No.3. She further submits that the petitioner addressed another letter dated 07.12.2016 to respondent No.3. In response thereto, respondent No.3, vide notice dated 19.12.2016, advised the petitioner to appear before the Senior Divisional Manager in his Chamber at Hyderabad Bhavan, Secunderabad, at 12:00 noon on 20.12.2016, for a personal hearing in connection with the leasing of SLR space in Train No.12707. She further relies upon the acknowledgment of the registered post and submits that, despite having received the said notice, the petitioner failed to appear before respondent No.3 for the personal hearing. In view of the same, she submits that nothing further survives for consideration in the present writ petition and seeks dismissal of the same.

6. Having heard learned counsel for the petitioner and learned Standing Counsel for the respondents, upon perusal of the material available on record, it is evident that the dispute primarily pertains to the refund of the EMD amount of Rs.1,00,000/- deposited by the petitioner pursuant to the

tender notification dated 28.03.2016. The petitioner contends that no lease agreement was executed between the parties and that the respondents have illegally withheld the EMD amount without considering his representation and subsequent legal notice, whereas, the learned Standing Counsel for the respondents submits that the contract awarded to the petitioner was subsequently terminated on account of his failure to comply with the terms and conditions of the allotment and that the petitioner was also afforded an opportunity of personal hearing *vide* notice dated 19.12.2016, which he failed to avail. In view of the rival submissions made by learned counsel for the respective parties, this Court is of the considered view that an opportunity of personal hearing may be afforded to the petitioner by respondent No.3 to enable him to put forth his case and submit relevant material in support of his claim for refund of the EMD amount. Accordingly, with the consent of both the parties, without going into the merits and demerits of the matter, this Court deems it appropriate to direct respondent No.3 to afford an opportunity of personal hearing to the petitioner on 18.11.2026 at 11:00 A.M. in the Chamber of respondent No.3. The petitioner shall appear before respondent No.3 on the aforesaid date and time and submit his explanation

along with the relevant supporting documents, if any. Upon such appearance and hearing, respondent No.3 shall consider the case of the petitioner, in accordance with law and pass appropriate orders preferably on the same day or within one week from thereon.

7. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

**SD/-T.SRINIVAS REDDY**
**ASSISTANT REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

**To**

1. The General Manager, Union of India, South Central Railway, Rail Nilayam, Secunderabad.
2. The Chief Commercial Manager, South Central Railway, Rail Nilayam, Secunderabad.
3. The Senior Divisional Commercial Manager, Hyderabad Division, Hyderabad Bhavan, South Central Railway, Secunderabad.
4. One CC to SRI NAMBI KRISHNA, Advocate [OPUC]
5. One CC to SRI N.BHUJANGA RAO, Deputy Solicitor General of India Advocate [OPUC]
6. Two CD Copies

**SA**

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HIGH COURT

DATED: 04/11/2026




ORDER

WP.No.45336 of 2016

DISPOSING OF THE W.P

WITHOUT COSTS.

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OBA

13-11-26.