

2026:PHHC:051172-DB



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No. 252-2

CWP-29314-2023

Date of decision : 02.04.2026

M/s ESS ESS Caterers

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. N. P. Bhardwaj, Advocate, for the petitioner.

Mr. Ravi Sodhi, Senior Panel Counsel with
Ms. Bhavna Thakur, Advocate, for the respondents- UOI.

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DEEPAK SIBAL, J. (Oral)

1. Through this petition the petitioner seeks issuance of a direction to the respondent-railway authorities to grant renewal to the licences of four mobile catering units/stalls being run by the petitioner at various platforms of the Amritsar Railway Station.

2. The facts, in brief, are that the petitioner is a sole proprietorship concern which, since the year 2009, is running four mobile catering stalls at various platforms of the Amritsar Railway Station.

On 29.01.2016, in *Senior Divisional Commercial Manager, South Central Railways and others vs. S. C. R. Caterers, Dry Fruits, Fruit Juice Stalls Welfare and another*-(2016) 3 SCC 582, the Supreme Court declared that only those licensees, who are providing catering services at railway stations, shall be eligible for renewal of their licences who can declare on affidavit that they do not possess in their names licences for more



than one shop/kiosk. In line with the afore observations of the Supreme Court, a circular dated 15.03.2017 was also issued by the Ministry of Railways, Government of India.

3. Since the petitioner was running more than one mobile catering stall at the Amritsar Railway Station and had not filed the required affidavit, in November-2023, the respondent-railway authorities invited e-bids for allotment of catering stalls at the Amritsar Railway Station. The four catering stalls being run by the petitioner were also included in the said notice inviting tender. In these circumstances the petitioner, through the instant petition, has knocked the doors of this Court seeking issuance of a direction to the respondent-railway authorities to grant renewal to all the four licences that the petitioner possesses as according to the petitioner its case is being discriminated vis-à-vis one M/s Mehta Bishan Dass & Sons licences of which firm have been granted renewal by the respondent-railway authorities to run nine mobile catering stalls at the Amritsar Railway Station.

4. Learned counsel for the petitioner submits that the petitioner is a sole proprietorship firm; its sole proprietor belongs to the poor strata of the society; since the year 2009, the petitioner has been running four small mobile catering stalls at the Amritsar Railway Station; the petitioner's licences for the afore-mentioned four stalls have been renewed by the respondent-railway authorities since the year 2009 but in November-2023, without any prior notice to the petitioner and in an arbitrary manner, the respondent-railway authorities failed to renew the petitioner's licences; the respondent-railway authorities further chose to invite bids for fresh allotment



of the four stalls being run by the petitioner; in the petitioner's case the respondent-railway authorities wrongly applied the judgment of the Supreme Court in *Senior Divisional Commercial Manager's* case (supra) but discriminately did not do so in the case of similarly placed firm namely M/s Mehta Bishan Dass & Sons which firm has been permitted by the respondent-railway authorities to run as many as nine catering stalls at the Amritsar Railway Station.

5. Learned counsel appearing for the respondent-railway authorities submits that in terms of the judgment of the Supreme Court in *Senior Divisional Commercial Manager's* case (supra), a sole proprietorship firm like the petitioner's could be allowed to run only one catering stall at a railway platform and that was also subject to such caterer filing of an affidavit that it does not possess licences for more than one shop/kiosk or *benami* licence; the petitioner did not file any such affidavit and therefore, cannot be allowed to complain; there is no discrimination between the petitioner's case and that of M/s Mehta Bishan Dass & Sons because the latter is a Hindu Undivided Family (HUF) whereas the petitioner is a sole proprietorship concern and that the Supreme Court in its order dated 30.10.2018 passed in Writ Petition (C) No. 373 of 2017 – *Vendors Cooperative Society Ltd. & others vs. Union of India and others* has clarified that the cap of running more than one catering stall would apply to a sole proprietorship but not to an association of persons and HUFs etc.

6. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.



7. In *Senior Divisional Commercial Manager's* case (supra), the Supreme Court held as follows: -

“24. One more important aspect to be taken note of by this Court is the non governance of railway property in the past 67 years since independence. Though, it is a recognized principle of law that the property of the railways is public property, yet in reality, it is the private players and industries that are allowed to carry on their business for transport of raw materials from one place to another. After the enactment of the Railways Act, 1989, the Rail Land Development Authority has been established under Chapter IIA of the Act to manage the railway property by framing policy or rules for allotment of the same in favour of the licensees, including fixing license fee or occupation charges in respect of the vast extent of vacant property from which huge revenue can be collected, which is a laudable object to cater to the need of the public at large. The periodical revision of license fee in respect of such big operators has not been done by the railways. Also, the Policy of not renewing the licenses of those persons who are members of the respondents are completely dependent on self-earning from these small units and making them participate in a public competition is absolutely unfair, unreasonable and arbitrary. The chances of such persons being deprived of their right to livelihood is also an important factor which has to be taken into consideration by this Court to interpret the policy framed by the appellants. The callous attitude as far as the inaction on the part of the State in tackling the problem of rising unemployment is appalling. The situation is made worse by the handing over of public functions to private entrepreneurs, which then exploit the policies of the government against the poor and downtrodden people of the country. If the appellants under the guise of the policy are permitted to deny renewal of licenses in favour of the licensees, it would amount to deprivation of their right to freedom of occupation guaranteed under Article 19(1)(g) of the Constitution as well as the right to livelihood, which action of the appellants would be diametrically opposed to their constitutional duty towards social justice as well as uplifting the weaker sections of the society and the unemployed youth of the country.

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26. Keeping in view the evolving concept of social justice, we allow the members of respondents who are the licensees to continue their petty business, especially in the absence of employment potentiality in the country on account of non-governance and non- implementation of the constitutional philosophy of an egalitarian society, which provides the opportunity to all individuals to lead a life of dignity. The right to life with dignity has been interpreted to be a part of right to life by this Court in the case of **Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors., (1981) 1 SCC 608** as under:

“We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing one-self in diverse forms, freely moving about and mixing and commingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of



the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self.”

27. Therefore, we have to hold that the provisions of the Catering Policy, 2010 are applicable to the concerned respondents. The action of the railways in not granting renewals of the licenses to the members of the respondents is arbitrary, unreasonable, unfair and discriminatory, and the same cannot be allowed to sustain in law.

28. For the reasons stated supra, this Court cannot interfere with the impugned judgment and order of the High Court. The Civil Appeals are dismissed. The order dated 11.04.2014 granting stay of the impugned order shall stand vacated. We, however, make it clear 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 stations with periodical reasonable increase of license fee.”

8. In line with the afore observations by the Supreme Court, the Ministry of Railways, Government of India, issued a circular dated 15.03.2017, the operative part of which reads as under: -

“(i) Notwithstanding any provision in Catering Policy 2010 and earlier catering policies, only those minor catering static unit licensees would be eligible for removal of their licenses who declare on affidavit that they do not have the license of more than one refreshment room at B and below category stations or one catering stall or one trolley or one Khomcha/dallah/Chhabba/Wheel Barrow/Hand Barrow/Tray/Table/Tea Balta at any Railway Station over Indian Railways in their name or benami license. The licensee already holding such renewed refreshment room or stall or trolley or Khomcha/Dallah/Chhabba/Wheel Barrow/Hand Barrow/Tray/Table/Tea Balta. **In case the licensee of the renewed contract wishes to participate in the tender process for allotment of fresh license during the period of renewal he/she shall forgo the renewal on allotment of fresh contract.**

(ii) For the purpose of renewal, one refreshment Room at B and below category stations or one catering stall or one trolley or one Khomcha/Dallah/Chhabba/Wheel Barrow/Hand Barrow/Tray/Table/Tea Balta shall be treated as one shop or one kiosk or one unit. If a licensee holds more than one unit under a single or multiple licenses he/she shall forgo all other units except the unit he/she wishes to be renewed.

(iii) Any false declaration by the license on Affidavit, as stated above, shall be treated as “Material Breach”. Any such misrepresentation by the licensee would result in termination of the license and debarment of the licensee in future allotment of catering units.”

9. The afore quoted observations made by the Supreme Court in *Senior Divisional Commercial Manager’s* case (supra) were later clarified



by the Supreme Court in *Vendors Cooperative Society Ltd.*'s case (supra)

and the relevant clarification in this regard is as follows: -

“We accordingly direct that the aforesaid associations of persons viz., the co-operative societies, partnership firms and HUF, in respect of the units covered by the judgment in Senior Divisional Commercial Manager, South Central Railways and Others (supra), shall be entitled to renewal of all the licences they hold as on the date of the expiry of those licences.”

10. A harmonious reading of the observations made by the Supreme Court in *Senior Divisional Commercial Manager's* case (supra) and the later clarification in *Vendors Cooperative Society Ltd.*'s case (supra), leave no room for doubt that the Supreme Court permitted renewal of licences of only those licensees who declare on affidavit that they do not have licences for running, at a railway station, more than one shop/kiosk in their names but such capping would not apply to an association of persons i.e. co-operative societies and HUFs etc.

11. In the case in hand, the petitioner is a sole proprietorship firm seeking renewal of licences to run four mobile catering stalls at various platforms of the Amritsar Railway Station. In terms of the judgment of the Supreme Court in *Senior Divisional Commercial Manager's* case (supra), the petitioner, being a sole proprietorship firm, cannot be allowed to run more than one stall. Therefore, no writ of mandamus, at the petitioner's behest, can be issued to the respondent-railway authorities to renew all its four licences being held/renewed since the year 2009.

12. M/s Mehta Bishan Dass & Sons is admittedly a HUF firm. In terms of the clarification by the Supreme Court in *Vendors Cooperative Society Ltd.*'s case (supra), such firm can be granted more than one licences



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at a time whereas the petitioner, a sole proprietorship, cannot. Therefore, the claim of parity by the petitioner vis-a-vis M/s Mehta Bishan Dass & Sons is misconceived.

13. In view of the above, on the filing of an affidavit by the petitioner in terms of the judgment of the Supreme Court in *Senior Divisional Commercial Manager's* case (supra), the petitioner's case for renewal of one of its four licences, is directed to be considered by the respondent-railway authorities. The needful be done within ten days from the date of receipt of the affidavit, as above, through passing of a reasoned order after granting an opportunity of personal hearing to the petitioner/its authorized representative.

14. Since the petitioner carries on petty business and has been running its stalls for the last 17 years and also had an interim stay in its favour for the last over 2½ years, it is directed that till the afore order by the respondent-railway authorities is conveyed to the petitioner, it shall be permitted to carry on its business of running one of the four stalls of its choice.

15. Disposed of.

[DEEPAK SIBAL]
JUDGE

02.04.2026
shamsher

[LAPITA BANERJI]
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No