
(2024) 03 GAU CK 0026
In the Gauhati High Court
Case No : Writ Appeal No. 124 OF 2023

M/S Deepak & Co.

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 11-03-2024

Acts Referred:

Citation : (2024) 03 GAU CK 0026

Hon'ble Judges : Vijay Bishnoi, CJ; Suman Shyam, J

Bench : Division Bench

Advocate : A. Chowdhury, B. Chowdhury, R.K.D. Choudhury

Final Decision : Dismissed

Judgement

Vijay Bishnoi, CJ

1. Heard Mr. A. Choudhury, learned senior counsel, assisted by Ms. B. Chowdhury, learned counsel for the appellants. Also heard Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India, representing the respondents.
2. This intra-Court appeal is filed by the appellants being aggrieved with the order dated 31.03.2023 passed by the learned Single Judge in WP(C) No.1828/2023.
3. Brief facts of the case are that the appellant No.1 is a Partnership Firm and the appellant No.2 is the majority Partner of the appellant No.1 Firm. The appellant No.2 is presently running Food Stalls at Guwahati and Kamakhya Railway Stations, which fall in A-1 and A-2 Category Railway Station. Pursuant to the Tender Notice dated 17.06.2014, the appellant No.1 applied for licences for operating Food Stalls at Guwahati and Kamakhya Railway Stations under the Catering Policy of 2010 and pursuant to the same, a Letter of Acceptance (LoA) was issued in favour of the appellants in February, 2017. However, as the Letter of Acceptance was issued to the appellants prior to the date of coming into force of the Policy of 2017, the rights of the appellants were protected as per Clause

20.2 of the Catering Policy of 2017. Clause 20.2 of the Policy of 2017 reads as under:-

"20.2 Tenders that have been finalized and LoA issued prior to the date of notification of this policy, shall be allowed to continue as per policy guidelines prevailing at that time. Zonal Railways will cancel all such tenders and return the earnest money to the tenderers in cases, where LoA has not been issued before issuance of this circular."

4. As the licence period of the appellant's licences were going to be expired by 31.03.2023, the respondent Railway authorities sent a communication dated 2.03.2023 to the appellant No.2 directing him to vacate the Stalls located at Guwahati and Kamakhya Railway Stations by 31.03.2023. The appellants assailed the said communication by way of filing writ petition before this Court, which came to be dismissed by the learned Single Judge vide the impugned order.

5. The appellants had argued before the learned Single Judge that though there is no provision for extension of the licences in the Catering Policy of 2017 but since the licences were issued to the appellants under the Catering Policy of 2010, as per Clause 20.2 of the Catering Policy of 2017, their licences are liable to be governed by the Policy of 2010, wherein the provision for extension of licence is there and as such, the action of the respondents Railway authorities of directing the appellants to vacate the Stalls by 31.03.2023, is illegal. It is also claimed that the action of the respondents of not extending the licence of the appellants as per the Catering Policy of 2010 is also bad in the eyes of law.

6. The learned Single Judge has dismissed the writ petition while observing that the Catering Policy of 2017 does not provide for renewal of licence for catering Vends/Stalls and, therefore, the appellants cannot have any legitimate right to have the term of the licence for running the catering Vends/Stalls extended beyond 5(five) years in terms of the Catering Policy of 2017.

7. Learned counsel for the appellants has argued that the learned Single Judge has erred in holding that since there is no provision for extension in the Catering Policy of 2017, the appellants cannot seek extension of licences beyond 5(five) years as a matter of right. It is contended that Clause 20.2 of the Catering Policy of 2017 clearly stipulates that the tenders that have been finalized and Letter of Acceptance issued prior to the date of notification of the Policy of 2017, shall be allowed to continue as per guidelines prevailing at that time. It is submitted that the Catering Policy of 2010 was prevailing at that time when the Letter of Acceptance was issued in favour of the appellants and in the said Policy, there was a Clause of extension, therefore, the licences issued to the appellants are liable to be extended.

8. We have considered the above submissions of the learned counsel for the appellants. However, we are of the view that the same is fallacious.

9. From the bare reading of Clause 20.2 of the Catering Policy of 2017, it is clear

that the rights of those persons, in whose favour Letter of Acceptance was issued prior to the notification of the Policy of 2017, are protected to the extent of issuance of licences to them under the Catering Policy of 2010. However, that does not mean that the persons in whose favour the licences had been issued under the Policy of 2010 can claim extension of their licences as per the provisions of Catering Policy of 2010 as a matter of right. The learned Single Judge has rightly observed that since no provision for extension of licence is there under the Catering Policy of 2017, the appellants cannot have a legitimate right to have their licences for catering Vends/Stalls extended beyond 5(five) years.

10. Hence, we do not find any merit in this appeal and the same is, therefore, dismissed.