
(2003) 10 AHC CK 0102

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 50484 of 2000

Siraj Nasir and Ors.

APPELLANT

Vs

Union of India & Ors.

RESPONDENT

Date of Decision : 31-10-2003

Acts Referred:

Citation : (2003) 10 AHC CK 0102

Hon'ble Judges : M.Katju, J and Rakesh Tiwari, J

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed praying for a writ of certiorari to quash the impugned notices dated 30 102000 issued against the petitioners No. 1, 2, 3 and 4 (Annexures 3, 4, 5 and 6 to the petition) and for a mandamus directing the respondents not to make demands in pursuance of the aforesaid notices.

2. We have heard learned Counsel for the parties.

3. The petitioners were given vending licence for selling food stuff on the railway station. True copy of the agreement entered into between the petitioner No. 1 and the railway authority is Annexure 1 to the petition. The period of licence was from 215 1997 to 3112001. The renewal thereafter, was at the discretion of the railway administration. The authorities were at liberty to terminate the agreement without assigning any reason and in that event the licensee would be entitled to get the refund of monthly sum paid for the expired period of licence. Similar agreement was entered into between the railway authorities and petitioners No. 2, 3 and 4. The licence fee was Rs. 1085/ per month.

4. Subsequently, on 30102000 notices were issued to the petitioners asking them to show cause why their licences should not be terminated as they were not providing proper service to the public vide Annexures 3, 4, 5 and 6. The petitioners sent replies vide Annexures 7, 8, 9 and 10. It was also stated in the notice that the licence fee has been increased from 17 1999. Aggrieved this writ

petition has been filed in this Court.

5. A counteraffidavit has been filed on behalf of the respondents 1 to 5. In paragraph 4 it is stated that the petitioners were licencees for sale of fruit, fruit juices, fruit salads etc. on the railway platform. The licences were valid up to 3112001. The licence have not been renewed by the railway administration. Hence, it is alleged that the petitioner has no right to continue after 3112001.

6. In paragraph 9 of the counteraffidavit it is stated that the Railway Board by circular dated 2461999 has revised the licence fee vide Annexure 1 to the counteraffidavit. In paragraph 11 of the counteraffidavit it is stated that the Government of India, Ministry of Railway has issued a new catering policy dated 20102000 because of the need for augmenting earnings of the Indian Railways. The expectations of the rail passengers are increasing and the passengers wanted higher standards of service from the caterers. For this reason the licence fee was increased (Photocopy of the catering policy 2000 is Annexure C.A. 2 to the counteraffidavit. In paragraph 13) it is stated that the railway authorities had found several irregularities in selling fruit, fruit juices and fruit salads by the petitioners. A chart showing the fines imposed on the petitioners is Annexures C.A. 3. In paragraph 17 it is stated that there is no illegality in demanding the licence fee by the railway. The licence agreement Annexure1 to the petition provides in paragraph 3(b) the power to the railway to make assessment. Hence, the enhancement is not illegal. Similar writ petition has been dismissed by a Division Bench of this Court vide Annexure C.A. 4.

7. In our opinion, since the petitioners licences were only up to 3112001, the petitioners have no right to continue operating after that date. The petitioners are not the owners nor the lessees of the railway platform but are only licencees. It is settled law that a licence can be terminated at any item by the licensor. Hence, the petitioners can claim no right after 311 2001.

8. As regards the enhancement of the licence fee, this matter has already been decided by the Division Bench of this Court in writ petition No. 4814 of 2000 (M/ B) Barkat Khan and others v. Union of India and others, decided on 811 2000. Following the aforesaid decisions this argument of the petitioner against the enhancement of the licence fee has also to be rejected.

9. In our opinion there is a difference between a lessee and licensee the petitioner cannot be claimed to be lessees of the platform but are only licencees of the same.

10. Clause 43 of the licence deed empowers the licensor i.e. the railway administration to alter any condition of the grant of licence. The petitioners were parties to this agreement Annexure 1 to the petition and hence they cannot complain that any alteration cannot be made in the licence agreement. The railway administration has decided to impose a new policy for catering and vending on the railway platform and in this connection the catering policy 2000 was issued. This Court cannot ordinarily interfere with the policy decision of the

administration. If the petitioners were of the opinion that in view of the enhancement in the licence fee the business was not profitable they were at liberty to stop the business of vending on the railway platform and to other business, but they continued to occupy the platform in question for vending their foodstuffs, which was illegal after 3112001 since their licences were not renewed after that date.

11. Thus there is no force in this writ petition and it is dismissed. The interim order if any is vacated. No order as to costs.