
(2016) 07 CAL CK 0026
In the Calcutta High Court
Case No : W.P. No. 12711 (W) of 2016

Sumant Yadav

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 26-07-2016

Acts Referred:

Citation : (2017) 1 WBLR 64

Hon'ble Judges : Joymalya Bagchi, J.

Bench : Single Bench

Advocate : Ms. Sutapa Sanyal, D. Bhattacharya, Ms. S. Pramanick, Advocates, for the Appellant; Ms. Aparna Banerjee, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Joymalya Bagchi, J.—Petitioner is aggrieved by the cancellation of the tender process dated 7.7.2016 in terms of Railway Board's FM Circular No.5 of 2016 dated 15.06.2016 (hereinafter referred to as 'the Circular').

2. It is the contention of the petitioner that although the tender was opened on 22.3.2016 with regard to both FSLR and RSLR parcel vans of 12041 Up & 12321 Up trains, the letter of allotment was issued in respect of RSLR parcel vans only and the issuance of the allotment letter was intentionally delayed in case of FSLR vans resulting in the cancellation of the tender process for the said FSLR vans wherein the petitioner was the highest bidder.

3. It is, accordingly, prayed that the impugned order of cancellation be set aside.

4. Learned lawyer appearing for the railway authorities submits that although the tender was opened in March, 2016, negotiations were going on and, therefore, the matter could not be finalized before the issuance of the aforesaid circular. Hence, it cannot be said that the action of the respondent/railway authorities was unfair or contrary to law.

5. I have considered the submissions of the respective parties. I find that the

tender was opened on 22.3.2016. Admittedly no letter of allotment was issued in respect of the bid for FSLR vans in respect of the trains in question till the issuance of the aforesaid circular. It is of little relevant that the letter of allotment had been issued in respect of the RSLR vans earlier.

6. Clause 3 of the aforesaid circular reads as follows :-

"3.0 These instructions will come into force with immediate effect and shall be made applicable to all future tenders to be invited for leasing out of parcel space of Brakevans (SLRs) and Parcel Vans (VPHs/VPs/VPU's etc.). Further ;

(i) The cases, where tenders have been finalized and `Letter of Allotment (LoA)" has been issued to the party by the Railway Administration prior to issuance of this circular, the leaseholder shall be allowed to operate the leasing contract as per policy guidelines prevailing at that time.

(ii) The cases, where `Letter of Allotment (LoA)" for award of leasing contract, has not been issued to the party before issuance of this circular, Zonal Railways will cancel all such tenders and return the earnest money to the tenderers."

7. In view of the said circular there was no option left to the railway authorities but to cancel the tender process where letter of allotment had not been issued. I am unable to accept the contention of the petitioner that the delay in issuing the letter of allotment was intentional or was prompted by any oblique or mala fide motives.

8. For the aforesaid reasons, I do not find any reason to interfere with the impugned order of cancellation. In the event the railway authorities proceed to hold fresh tender in respect of the selfsame matter, it shall be open to the petitioner to participate in the same in accordance with law if he is otherwise qualified.

9. Needless to mention that in terms of the aforesaid circular, the earnest money of the petitioner would be refunded to him forthwith, if not already done.

10. With the aforesaid observation, the writ petition is disposed of.

11. Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.