
(2023) 09 KL CK 0097

In the High Court Of Kerala

Case No : Writ Petition (C) No. 29732 Of 2023

T.M. Koya

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 12-09-2023

Acts Referred:

Citation : (2023) 09 KL CK 0097

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : Sunil Kumar A.G, George Mathew, Vidya Kuriakose

Final Decision : Allowed

Judgement

Devan Ramachandran, J

1. The petitioner impugns the actions of the Railways in attempting to re-tender the license with respect to the 'Multi-Purpose Stall' (MPS), being run by him in the Kozhikode Railway Station, asserting that he has been running the same for the last more than twelve years. He alleges that Clause No.5 of Ext.P2 - the 'Multi-Purpose Stall Policy' is illegal and unlawful to the extent to which it mandates that the tenure of a contract will only for five years, without any further extensions; and thus prays that the competent respondents be directed to renew his license forthwith, since the original one is expiring today (12.09.2023).

2. The afore request and contention of the petitioner, as urged by his learned counsel – Smt.S.Parvathi, were answered by Sri.Prenjith Kumar – learned Central Government Counsel, appearing on behalf of the Deputy Solicitor General of India, saying that running of the 'MPS' is a commercial venture, a specific tenure is required to be fixed and that this is all which has been done through Ext.P2. He argued that the challenge to Ext.P2 is untenable particularly when the petitioner can participate in the new tendering process and that he can continue to operate the present stall, until such time as the new tender is finalised.

3. On hearing Sri.Prenjith Kumar as afore, Smt. S.Parvathy submitted that if this Court is to incline to allow her client to continue until such time the new tender processes are completed and also to allow him to take part in the same, then he does not intent to press the challenge to Clause 5 of Ext.P2 at this stage; but prayed that his right to do so in future is left open.

In the afore circumstances, I allow this Writ Petition and directing the respondents not to shut down the 'MPS' run by the petitioner until such time as a fresh contract is awarded qua it, through the tendering process initiated or to be initiated as per law.

Needless to say, the petitioner will be at full liberty to take part in the new tendering process and if he is found to be highest bidder and with all necessary qualifications, then to be awarded the tender in terms of law.