

Vs. the Union of India and ors.

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SooperKanoon Citation : sooperkanoon.com/1060855

Court : Kolkata

Decided On : Apr-30-2013

Judge : Dipankar Datta

Respondent : The Union of India and ors.

Judgement :

W.P.387 OF 2011.IN THE HIGH COURT AT CALCUTTA CONSTITUTIONAL WRIT JURISDICTION ORIGINAL SIDE INDIAN RAILWAY CATERERS ASSOCIATION & ANR.Petitioners Versus THE UNION OF INDIA & ORS..

Respondents BEFORE The Honble JUSTICE DIPANKAR DATTA For the petitioners For the respondents : Mr.S.N.Mukherjee, Sr.Advocate with Mr.B.Bhattacharya, Advoate : Mr.Ashok Chakraborty, Sr.Advocate with Mr.Swapan Banerjee and Mr.Saptarshi Roy, Advoates April 30, 2013 THE COURT : Mr.Mukherjee, learned senior counsel for the petitioners files in Court today a supplementary affidavit.

He submits that liberty therefor had been granted on 26th April, 2013.

Mr.Chakraborty, learned senior counsel representing the respondents objects to the supplementary affidavit being taken on record.

He relies on the decisions of this Court reported in (2003) 4 COMP-LJ 33.(Cal) and 2009(2) CHN 94.to contend that the petitioners ought to file an application for amendment to bring on record the facts that have been pleaded in such affidavit.

In so far as the objection regarding the supplementary affidavit being taken on record is concerned, I am of the view that the same may be accepted subject to just exceptions that may be raised by the respondents at the final hearing.

Whether or not the petitioners are attempting to make out a new case in the supplementary affidavit, which is not traceable in the writ petition, cannot be decided at this stage.

A final decision in this behalf shall be taken at the time the writ petition is heard finally.

If it is found that the petitioners have sought to make out a new case in the supplementary affidavit, the Court may discard the supplementary affidavit.

Regarding the prayer of Mr.Mukherjee for interim relief, I decline to grant the same on the grounds (i) that the Working President and one of the patrons of the fiRs.petitioner-Association have taken part in the tender process during the pendency of the writ petition without obtaining any leave of Court and without recording that such participation is without prejudice to their rights and contentions herein ; and (ii) that the terms and conditions of the tender do not, prima facie, appear to be arbitrary or unreasonable, and should interim relief be granted staying the tender process, that would amount to granting the principal relief claimed in the writ petition.

Prayer for interim relief is, accordingly, refused.

Let affidavit in opposition dealing with the contents of the writ petition as well as the supplementary affidavit be filed within 3 weeks after vacation ; reply thereto, if any, may be filed within a week thereafter.

The parties shall be at liberty to mention the writ petition for hearing after the period fixed above for exchange of affidavits expires.

Let Photostat signed copy of this order be given to the parties upon compliance of usual formalities.

(DIPANKAR DATTA, J.) Rsg.(ARCR)

