

Budh Singh and Sons and ors. Vs. the Union of India (Uoi) and ors.

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Court : Allahabad

Decided On : Jul-09-2004

Reported in : AIR2004All428; 2004(4)AWC3363

Judge : M. Katju and ;K.N. Ojha, JJ.

Acts : [Railways Act, 1989](#) - Sections 144

Appeal No. : Civil Misc. Writ Petn. No. 19808 of 1998

Appellant : Budh Singh and Sons and ors.

Respondent : The Union of India (Uoi) and ors.

Advocate for Def. : Govind Saran, Adv.

Advocate for Pet/Ap. : Bhagwati Prasad and ;A.A. Khan, Advs.

Disposition : Petition dismissed

Judgement :

M. Katju, J.

1. Heard learned counsel for the parties.
2. This writ petition has been filed against the impugned order dated 28-4-1998 Annexure 1 to the writ petition enhancing the licence fee payable by the petitioner

by 600%. It has also been prayed that the respondents be directed to place the Meerut City Railway Station under the category of medium station instead of its placement in the large category of station as per order dated 31-10-1997. The petitioners have further prayed for a mandamus directing the respondents not to interfere in any manner in their operating the stalls and trollies in pursuance to the existing agreements and provide all privileges e.g. passes and medical benefits etc. to the staff of the petitioners. The petitioner has also prayed that the respondents be directed to review the agreement for running the stalls and trollies at Meerut City Railway Station on the expiry of the existing agreement.

3. The petitioners were engaged in the business of vending at Meerut City Railway Station through stalls and trollies of different eatables, snacks, fruits and other items and providing service to the passengers of various trains passing through Meerut railway station. It is alleged that the petitioners are doing this business for the last more than 30-40 years.

4. The work of running the stalls and trollies over the various railway stations are given by the Railway Administration of various divisions through an agreement executed in favour of the contractors. True copy of the agreement dated 13-6-1995 executed between the Railway Administration, Northern Railway and petitioner No. 7 is Annexure 2 to the writ petition. In that agreement the number of stalls and trollies and vendors operated by the petitioner No. 7 and the monthly rate of licence fee, rent and other charges are shown. The monthly licence fee and rent in the case of the petitioner 7 is Rs. 1594/- which has been made applicable w.e.f 1-4-1992 in case of all the petitioners. It is alleged that there has been arbitrary enhancement of the licence fee. It is also alleged that the fee has been enhanced without considering the letter of the Railway Board dated 2-1-1987 Annexure 3-A to the writ petition. It is further alleged that the licence fee cannot be enhanced during the continuance of the existing contract.

5. A counter-affidavit has been filed by the Railways. In paragraph 4 of the same it is alleged that the contract with the railway is only for five years. The same can be granted further on the fresh terms and conditions with the same person or to new persons. According to the terms and conditions in paragraph 3(c) of the agreement

the railway can enhance the licence fee from time to time at the sole discretion of the Northern Railway Administration . Photocopy of one of such agreement is Annexure C.A.I. For the purpose of fixing the licence fee of the catering/vending unit the stations of Delhi division are divided into four categories : (1) special, (2) large, (3) medium and (4) small. These categories are fixed on the basis of the number of passengers using the railway stations, sale of vending and catering unit population of the city and also the number of trains passing through the station vide circular of the Railway Board dated 2-9-1986 issued from the office of the D.R.M., Northern Railway, Delhi Annexure C.A. 2 to the counter-affidavit. In paragraph 6 it is alleged that the Railway Board authorised the D.R.M., Northern Railway, Delhi to enhance the licence fee. The licence fee was last revised in the year 1983-84. In 1992 the licence fee was enhanced only three times than the existing charges after considering the report of the screening committee.

6. In paragraph 8 of the counter-affidavit it is alleged that the cumulative effect of the increase in the price of eatables and the increase in number of passengers are likely to increase by approximately three times in the earning of the vending contractors. Hence the licence fee was enhanced by three times w.e.f. 1-4-1992.

7. In paragraph 9 of the counter-affidavit it is alleged that a committee was constituted for reviewing the licence fee in the catering establishment of Delhi Division recommended on 31-10-1997 for revising the existing licence fee by 100% w.e.f. 1-11-1997 and further increase by 10% per annum. This revision was done by the committee on the basis of various factors mentioned in paragraph 9 of the counter-affidavit. The petitioners were well aware of all the facts while executing the agreement that the charges are subject to revision from time to time and at the sole discretion of the Northern Railway Administration. Hence, the petitioner has no right to challenge the revision of the licence fee. It is alleged that the petitioners are paying very meagre amount of licence fee while their income is very high. The chart showing the amount of licence fee paid by the petitioners per year is Annexure C.A. 3 to the counter-affidavit.

8. In paragraph 12 it is alleged that as per the Railway Head Quarter , Baroda House, New Delhi letter dated 11-10-1977 Meerut city was in the category of New

Delhi i.e. a very large station. Subsequently by Head Quarter circular dated 16-10-1978 Meerut was down graded and put in the category of large after reviewing the matter by the competent authority. It is alleged that the petitioner has filed similar Writ Petition No. 8287 of 1998 Budh Singh and Ors. v. Union of India which is pending in this Court and hence the second writ petition is not maintainable. It is alleged that the Railway Administration can enhance the licence fee according to the terms and conditions of the licence agreement. The enhancement has been done in phases after taking into consideration increase of passengers, increase of number of trains, increase in the rates of eatable items increase in the whole sale price index, etc. Hence there is no illegality in the order. It is alleged that the rates of eatable items have gone up at the average around 295% over the entire range.

9. Clause 3(c) of the agreement between the Railway Administration and the petitioners states :

'The charges in Clause (a) above are subject to revision from time to time at the sole discretion of Northern Railway Administration.'

10. The petitioners were aware of this Clause and hence they have no right to challenge the enhanced licence fee. It is denied that the Meerut city was arbitrarily placed in the large category station.

11. In paragraph 39 of the counter-affidavit it is alleged that the licence holders of Delhi Division are paying the enhanced licence fee regularly except the petitioners. Enhancement has been done according to the rules and various factors involved in the licence fee.

12. A supplementary counter-affidavit has also been filed and we have perused the same. We have also perused the rejoinder affidavit.

13. On the facts of the case we find no merit in this petition. In Siraj Nasir v. Union of India, Civil Misc. Writ Petition No. 50484 of 2000 decided on 31-10-2002, Reported in (2002) 49 All LR 763 a Division Bench of this Court upheld a similar enhancement in licence fee. Copy of the said judgment is Annexure S.C.A. 1 to the supplementary counter-affidavit. Against that judgment an S.L.P. was filed in

the Supreme Court which has been dismissed on 10-12-2002 vide Annexure S.C.A. 2. We entirely agree with the aforesaid judgment. Moreover Clause 3(c) of the agreement between the Railway and the petitioners permits enhancement of the licence fee. If the petitioners are aggrieved they may not continue to do the business at the railway platform. The petitioners are neither the owners nor the lessees of the railway platform but are licencees. It is well-settled that a licence can be terminated at any time.

14. The impugned decision is a policy decision and it is well-settled that this Court should not ordinarily interfere with policy matters.

15. The petition is dismissed. Interim orders are vacated.

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