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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P. (C) 3239/2020

INDIAN RAILWAYS ON BOARD CATERING CONTRACTORS
ASSOCIATIONPetitioner

Through: Mr. Jitender Mehta, Advocate.

versus

UNION OF INDIA & ANR.Respondents

Through: Mr. Jagjit Singh, Advocate for
R-1/UOI.

Mr. Nikhil Majithia, Advocate for
R-2/IRCTC.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

22.05.2020

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HEARD THROUGH VIDEO CONFERENCING.

C.M. Nos. 11272-74/2020 (Exemptions)

Allowed subject to all just exceptions.

W.P. (C) 3239/2020 & C.M. No. 11271/2020 (Stay)

1. The present petition has been filed by the petitioner/Association praying *inter alia* for declaring as illegal and arbitrary, limited tenders for 15 trains floated by the respondent No. 2/IRCTC for provision of onboard catering services in special trains in a particular category pending complete unbundling, for a period of 30 days or so. The petitioner/Association also seeks directions to the respondent No.1/Union of India (UOI) and the respondent No. 2/IRCTC to change the terms and conditions of the tender and allow the existing licensees to participate in the said tenders.

2 Both, Mr. Jagjit Singh learned counsel for the respondent No.1/UOI and Mr.Nikhil Majithia learned counsel for the respondent No. 2/IRCTC oppose the present petition on two counts. Firstly, on the ground that the petitioner/Association is an un-registered body and its membership is unknown as it has not been declared in the writ petition. Secondly, it is stated that the tenders in question have been floated for particular trains that have been permitted to be run by the Government even during the lockdown period and the said tenders are only for a period of 30 days for onboard catering services in special trains introduced during the COVID-19 pandemic. The said catering services are confined to sale of pre-packed food, drinks and beverages but not to cooked meals. It is submitted by learned counsel for respondent No.2 that only those parties who are category 'A' empanelled licensees have been permitted to participate in the tenders as they have been awarded licenses for a period of five years for the RSD category trains i.e. Rajdhani, Shatabdi and Duranto.

3 Mr. Mehta, learned counsel for the petitioner states that some of the members of the petitioner/Association are category 'A' licensees and some of them are also licensees for the RSD trains. He states that the grievance of the petitioner/Association is that the respondent No. 2/IRCTC has selectively permitted particular parties to participate in the tenders while excluding members of the petitioner/Association.

4 Mr. Majithia, learned counsel for the respondent No.2/IRCTC, however, disputes the said submission and clarifies that members of the petitioner/Association are existing licensees but not empanelled licensees for category 'A' trains and that is where the distinction lies.

5 We are inclined to agree with the submission made by learned counsel for the respondent No. 2/IRCTC and are of the opinion that there is no discrimination on the part of the respondents in inviting tenders in the instant

case when the same have been opened to a particular category i.e. empanelled licensees in category 'A'.

6 At this stage, learned counsel for the petitioner states that despite a representation dated 18.05.2020 submitted by the petitioner/Association to the respondent No. 2/IRCTC on the aspect of permission to participate in future tenders, no response has been received so far. He states that he does not wish to press the present petition but appropriate directions be issued to the respondent No. 2/IRCTC to respond to the said representation.

7 While disposing of the present petition along with the pending application as not pressed, respondent No. 2/IRCTC is directed to reply to the representation dated 18.05.2020, addressed by the petitioner/Association within four working days under intimation to learned counsel for the petitioner through e-mail.

7 The present petition is disposed of.

HIMA KOHLI, J.

SUBRAMONIUM PRASAD, J.

MAY 22, 2020

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