

[NMD CASE]

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8526/2006

(From the judgement and order dated 28/03/2006 in WP(C) No. 123/2006 & WP(C) No. 124/2006 of The HIGH COURT OF DELHI AT N. DELHI)

INDIAN RAILWAY CATERING & TOURISM C.LTD.

Petitioner(s)

VERSUS

M/S. POORVANCHAL CATERERS & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

WITH S.L.P.(C) NO. 927 of 2007

(With prayer for interim relief and office report)

AND

SLP(C) No. 8546/2006 (NMD CASE)

[With prayer for interim relief and office report]

Date: 20/03/2007 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. Gourab Banerji, Sr. Adv.

Mr. Saurav Agarwal, Adv.

Ms. Ruby Singh Ahuja, Adv.

Mr. T.M. Singh, Adv.

For Respondent(s)

Mr. Sudhir Chandra Aggarwal, Sr. Adv.

For RR 1 & 2 in

Mr. Syed Naqvi, Adv.

SC 8526/06 and 927/07

Ms. Smieetaa Inna, Adv.

Ms. Asha Gopalan Nair, Adv.

Mr. Rajesh Kumar, Adv.

Mr. Brajesh Kumar, Adv.

Mr. Ajay Kumar Talesara, Adv.

In SLP 8546/06

Mr. Sudhir Chandra Agrawal, Sr. Adv.

For R-1

Mr. G. Prakash, Adv.

Mrs. Beena Prakash, Adv.

Mr. B.P. Pandey, Adv.

For UOI

Mr. T.S. Doabia, Sr. Adv.

Mr. Devdatt Kamat, Adv.

Ms. V. Mohana, Adv.

Mr. Manpreet Singh Doabia, Adv.

Mr. R.C. Kathia, Adv. for

Mr. D.S. Mahra, Adv.

Mr. V.K. Sidharthan, Adv.

UPON hearing counsel the Court made the following

O R D E R

SLP(C) Nos. 8526/2006 and 8546/2006

Leave granted.

The appeals stand disposed of in terms of the signed order.

SLP(C) No. 927/2007

The counter-affidavit filed by the Union of India, though has been served upon the counsel for the parties, has not been placed on record of the Court. Counsel

appearing for the Union of India states that the affidavit shall be filed within one week.

Permitted to do so. Rejoinder, if any, be filed within a week thereafter.

To be listed immediately after three weeks.

Interim order to continue in the meantime.

(J.S. Rawat)

AR-cum-PS

(Kanwal Singh)

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1500 OF 2007.  
(Arising out SLP(C) No. 8526 of 2006)

Indian Railway Catering & Tourism Corporation Ltd.

Appellant(s)

Versus

M/s. Poorvanchal Caterers & Ors.

Respondent(s)

With

CIVIL APPEAL NO. 1501 OF 2007.  
(Arising out SLP(C) No. 8546 of 2006)

O R D E R

Leave granted.

We are disposing of these two appeals by this common order as Writ

Petition © Nos. 123 and 124 of 2006, against which Civil Appeal No. 1500 of 2007 [SLP(C) No. 8526/06] has been preferred, was disposed of by the High Court relying upon the decision of a Division Bench of the same High Court in another Writ Petition No. 23241/2005 against which Civil Appeal No. 1501 of 2007 [SLP (C) No. 8546/2006] has arisen. The High Court has disposed of the Writ Petitions without assigning any reasons for its decision.

For convenience of reference, the facts have been taken from the Civil Appeal No. 1501 of 2007 arising out of SLP(C) No. 8546/2006.

In the year 1999 one M/s. P.R. Catering were providing catering services on Train No.2421-2422, which was running bi-weekly between New Delhi and Bhubaneshwar via Gaya. In February 2003 Train No. 2443-2444 was introduced. This train was also running bi-weekly between New Delhi-Bhubaneshwar but via different route, i.e., Bokaro. On 20th February, 2003 by way of a short term arrangement, M/s. P.R. Catering who were operating in Train No. 2421/22 were asked to provide catering services in Train No. 2443/44 till further advice.

Tenders were invited for licence to manage on-board catering services in Train No. 2443-2444. M/s. R.K. Enterprises (the original writ petitioners) respondent herein, filed a writ petition in the High Court challenging the invitation of tenders for licence to manage on-board catering services in respect of Train No.2443/44 - New Delhi-Bhubaneshwar Rajdhani Express by the Indian Railway Catering & Tourism Corporation Limited (IRCTC), the appellant herein.

After noticing the submissions made on behalf of the IRCTC and the

original writ petitioners, the High Court disposed of the writ petitions by simply agreeing with the submissions advanced on behalf of the original writ petitioners and rejected the submissions advanced by the counsel appearing for IRCTC. No reasons have been recorded for either agreeing or disagreeing with the submissions made on behalf of either of the parties. In fact, there is no discussion on that score. In our view, the High Court should have recorded its independent reasons for either accepting or rejecting the submissions of either side. Further, the High Court should have, in our opinion, examined and scrutinised the policy framed by the Railway Board.

Since the High Court has failed to record reasons in support of the conclusions arrived at coupled with the fact that the High Court has not examined or interpreted the policy in question, we deem it appropriate to set aside the impugned judgment and remand the case back to the High Court for a fresh decision in accordance with law. Ordered accordingly. All contentions are left open to be agitated before the High Court.

Since the contract is of short duration, we would request the Hon'ble Chief Justice of the High Court to list the matter for hearing and final disposal immediately on production of a certified copy of this order.

Union of India was impleaded as a party-Respondent pursuant to this Court's order dated 9th January, 2007. It has filed its Counter-Affidavit in both the matters. The Union of India is directed to file in the High Court the Copies of the Counter-Affidavit filed in this Court, within two weeks.

The appeals stand disposed of accordingly. No costs.

.....J.

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(ASHOK BHAN)

New Delhi;  
March 20, 2007.

.....J.  
(DALVEER BHANDARI)