

**HIGH COURT OF BOMBAY****Bench: Justices Sandeep V. Marne and Dr. Neela Gokhale****Date of Decision: 15th May 2024**

Case No.:

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG.) NO. 16379 OF 2024

**PETITIONER: Rukmani V. Agarwal****VERSUS****RESPONDENTS:****Union of India, Central Railways, through General Manager, CSMT****The Railway Board, Ministry of Railways, Government of India through  
the General Manager, CSMT****The General Manager, Central Railways****The Chief Commercial Manager (Claims and Catering)****The Dy. Chief Commercial Manager (Claims and Catering)****The Divisional Railway Manager, Mumbai Division, Central Railways****The Senior Divisional Commercial Manager (Works), CSMT****The Divisional Commercial Manager (Cog.) Mumbai Division, Central  
Railways, CSMT****The Assistant Commercial Manager (Goods) Divisional Office, CSMT****Legislation:**

Constitution of India – Articles 14, 19(1)(g), 226

**Subject:** Writ petition challenging orders directing the relocation of a catering stall at Dadar Railway Station, Mumbai, on grounds of non-application of mind, impact on livelihood, and violation of hygienic conditions for food stalls.**Headnotes:**

Administrative Law – Policy Decision – Relocation of Railway Stalls – Petitioner, an allottee of a catering stall at Dadar Railway Station, challenges multiple orders directing the relocation of her stall – Petitioner argues non-application of mind, adverse impact on livelihood, and violation of hygienic

conditions – Court upholds the railway administration’s policy decision for decongesting platforms and facilitating free passenger movement, finding no merit in the petitioner’s objections [Paras 1-20].

Relocation of Stall – Considerations and Judicial Review – Decision to relocate based on congestion and passenger flow issues at one of Mumbai’s busiest railway stations – Feasibility report suggesting relocation near an escalator was overruled by a broader policy decision affecting multiple stalls – Court finds no arbitrariness or discrimination in the decision, highlighting the need to prioritize public interest over individual business preferences [Paras 3-18].

Public Interest and Individual Rights – Relocation aimed at decongesting platforms to ensure passenger safety and convenience – Court emphasizes that individual business interests must yield to larger public interest – Petitioner’s argument regarding unhygienic conditions near the new location dismissed, as multiple stalls would be situated between the urinal and the petitioner’s stall, ensuring hygienic conditions are maintained [Paras 14-19].

Decision: Writ Petition dismissed – Court finds the railway administration’s decision to relocate the stall within its policy-making prerogative, ensuring passenger convenience and safety at a busy station like Dadar – Petition devoid of merit and hence dismissed with no order as to costs [Paras 20].

#### **Referred Cases:**

- Senior Divisional Commercial Manager, South Central Railways vs. S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls, Welfare Associations, and Another (2016) 3 SCC 582
- Jacob Puliyel vs. Union of India and Ors., 2022 SCC Online SC 533

#### **Representing Advocates:**

**Mr. Mayur Khandeparkar with Ms. Nidhi Singh, Mr. Brian Noronha, Mr. Shubham Khaire, Mr. Ishan Gambhir, Ms. Akshata Parkar i/by. Indialaw LLP, for Petitioner**

**Mr. T.J. Pandian a/w. Mr. D.P. Singh, for Respondents**

***Judgment (Per Sandeep V. Marne J)***

1) **Rule.** Rule made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petition is taken up for hearing and disposal.

2) Petitioner, an allottee of a Catering Stall on Platform at Dadar Railway Station, Mumbai is aggrieved by Orders/Notices dated 9 February 2024, 29 February 2024, 10 April 2024, 19 April 2024 and 9 May 2024 directing her to shift her catering stall at the suggested location on the same platform.

3) Petitioner has been operating a Catering Stall admeasuring area of 60 sq.ft, which is currently located at a distance of 38 ft from the footover bridge on platform nos. 9 and 10 (old platform nos.3 and 4) at Dadar Railway Station, Central Railway. According to Petitioner, the Stall has been allotted to her in the year 2007 after prolonged litigation up to the Apex Court.

4) It appears that a Member of Parliament wrote letter dated 3 August 2022 to the General Manager, Central Railway, copy of which is not available on record. However, by referring to the said letter, a Feasibility Report was prepared by various railway ofcials on 7 November 2022, under which Petitioner agreed for shifting of her catering stall on the same Platform towards Kurla-pend under the escalator/Pillar No.C-20 or opposite 8 x 344 and 8 x 346. Petitioner agreed for such relocation and signed the Feasibility Report dated 7 November 2022. However, according to Petitioner, no action was taken on the Feasibility Report. Instead, order dated 09 February 2024 was issued by the Senior Divisional Commercial Manager (Works) CSMT, Mumbai directing relocation of 8 stalls at Dadar Railway Station. By that order, Petitioner's stall has been directed to be relocated on Platform Nos. 9/10 (old Platform Nos. 3/4) beyond E.M.U. Halt at CSMT end in same size of 60 sq.ft. Petitioner protested against the move by letter dated 10 February 2024. However, after considering her representation by letter dated 29 February 2024, the Railways again advised Petitioner to shift the Stall. A reminder dated 10 April 2024 was issued to the Station Manager, Dadar Station. Petitioner submitted one more letter dated 1 April 2024 and instead of accepting her request, the Railway Administration once again advised her to shift the Stall at suggested site vide letter dated 19 April 2024. A Final Notice dated 9 May 2024 was issued to Petitioner threatening her with suspension of license in the event of failure to relocate the Stall by 20 May 2024.

Aggrieved by the above orders and communications, Petitioner has filed the present petition.

- 5) We have heard Mr. Mayur Khandeparkar the learned counsel appearing for the Petitioner. At the outset he would submit that Petitioner is principally not against the decision of the Railway Administration to shift the current location of the Stall. He would however submit that the decision, to the limited extent of location decided by Respondents, would warrant interference by this Court. He would raise following three principal objections to the forcible relocation of Petitioner's Stall.
- (i) Firstly, he would submit that the impugned orders indicate complete ignorance of Feasibility Report dated 7 November 2022, which was prepared by the local railway officials, including the Station Manager, Dadar, who are well versed with the situation at the ground level. That therefore the impugned orders suffer from the vice of non-application of mind.
- (ii) Secondly, Mr. Khandeparkar would submit that relocation of the Stall at the suggested site would affect livelihood of the Petitioner. He would invite our attention to a Sketch produced at page-64 of the paper-book to demonstrate that the proposed site chosen by the Railway administration is beyond the E.M.U. Halt, which would virtually mean that Petitioner would have no customers visiting her Stall. That Petitioner sells Tea, Coffee, other beverages and small snack items and that relocation of her stall beyond E.M.U. Halts would completely throw her out of business. Relying on judgment of the Apex Court in **Senior Divisional Commercial Manager, South Central Railways and Others V/s. S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls, Welfare Associations and anr.**<sup>1</sup>, Mr. Khandeparkar would contend that if the decision affects livelihood of citizens, the same can be interfered with by Courts even if the decision is in the realm of policy.
- (iii) Thirdly, Mr. Khandeparkar would submit that the impugned decision to relocate Petitioner's stall is against Railways' policy of providing hygienic food items to travelling passengers. That the proposed location is near a Urinal and considering the nature of beverages and food items sold by Petitioner, it would be highly unhygienic for passenger to consume tea, coffee and other beverages while standing near a Urinal. He would rely on Clause-1.1 of the Catering Policy 2010, under which the declared objective is to provide hygienic, good quality affordable food to the traveling public. That the impugned decision flies in the face of such catering policy. He would also rely upon decision in **Jacob Puliyel V/s. Union of India and Ors.**<sup>2</sup> in support of

his contention that while regulating the issues of public health, certain limitations can be imposed on individual rights.

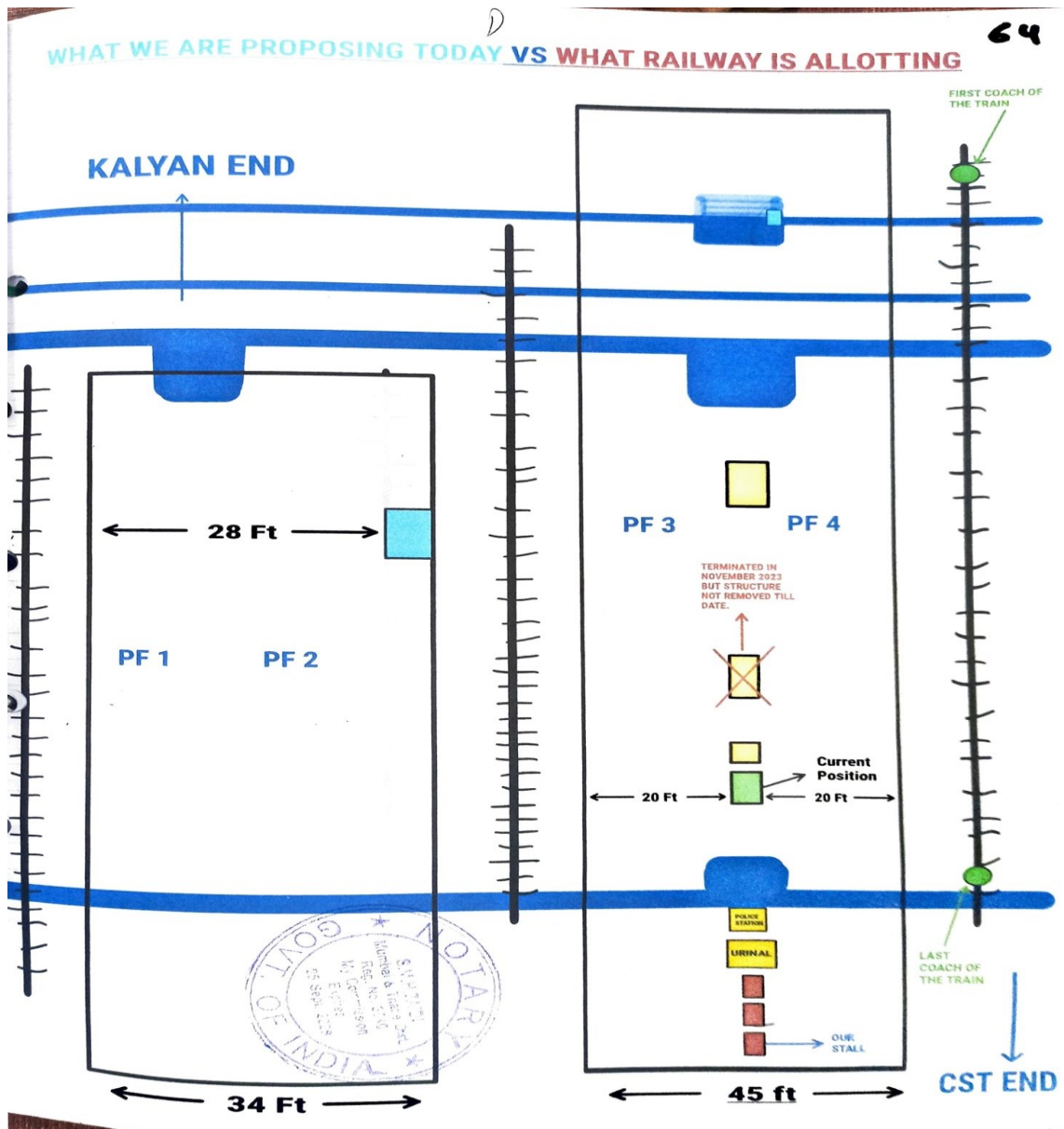
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<sup>1</sup> (2016) 3 SCC 582

<sup>2</sup> 2022 SCC Online SC 533

- 6) On the above broad submissions, Mr. Khandeparkar would pray that the impugned decisions be set aside and the Railways be directed to relocate Petitioner's stall at the site agreed in the feasibility report.
- 7) Mr. Pandian, the learned counsel appearing for Respondent-railway administration would oppose the petition submitting that it is a prerogative of Railway Administration to decide the locations at which Catering Stalls can be permitted to be set up and that the stall licensees do not have any right to insist that they should be permitted to operate their business at desired locations on railway platforms. That the impugned decisions are taken to ensure that there is no congestion of passengers alighting from and boarding the local trains on the concerned platforms. That it is a policy decision uniformly applied in respect of 8 vendors and that Petitioner is not selected for any hostile discrimination. Mr. Pandian would submit that under the license issued to the Petitioner, she has agreed to vend the food items at the site suggested by the Railway Administration. He would pray for dismissal of the petition.
- 8) Rival contentions of the parties now fall for our consideration.
- 9) Petitioner is currently operating the catering stall licensed in her name on the common Platform Nos .9 and 10 (old Platform Nos. 3 and 4) at Dadar Railway Station, which is located slightly away from the footover bridge. Petitioner has prepared a rough Sketch to indicate the current location, agreed location as per feasibility report and the suggested location.

The same is reproduced:



- 10) The above sketch would indicate that the current location of Petitioner's stall is between the halting points of 'Electric Motor Units' (EMU) or known in common parlance in Mumbai as 'Local Trains' on common Platform 9 and 10 (old platform nos.3 and 4). The location indicate in bright blue color below the escalator on top portion of the sketch (near first coach of the train) was the agreed location in the Feasibility Report. The suggested location in the impugned decision is at the extreme bottom of the sketch in brown colour.
- 11) It appears that the Railway Administration had observed in the year 2022 that during peak hours, congestion was being caused affecting free flow of passengers on account of location of Petitioner's Stalls on Platform Nos. 9 and 10. It was therefore decided to relocate Petitioner's Stall in the year 2022 and accordingly a Feasibility Report was prepared on 7 November 2022 by Senior Section Engineer (Works), Senior Section Engineer (electrical), Chief Commercial Inspector (Dadar) and Signal and Telecommunications Department of Dadar. It appears that Petitioner was also made part of the



Sr.No	Name of Stall	Licensee Name	Existing Location	New Location	Revised size (in Sq.ft)
1	Catg.Stall	Smt. Rukmani V. Agarwal	PF No.9/10 (old 3/4)	Beyond EMU halt CSMT end on same platform	60
2	MPS	M/s. A.H. Wheeler		Beyond EMU halt CSMT end on same platform	60
3	Catg. Stall	M/s. MK Kashyap Enterprises		Subject contract is terminated; hence no relocation is required.	
4	Catg. Stall	M/s. Pradeep S. Kanagali		Beyond EMU halt CSMT END on same platform	60
5	Catg. Stall	M/s. Triveni Associates		PF No.11 (old 5)	All units are proposed to be shifted on same platform – one unit beyond EMU halt Kurla end and remaining beyond
6	Table Counter	M/s. A H wheeler	36		
7	Catg. Stall	M/s. catering Vendors Cooperative society	60		

				EMU halt CSMT end	
8	Catg. Stall	M/s Prakash alias Lala P Narayan			60

12) said Report, possibly to record her agreement for relocation of the stall. As per the Feasibility Report, Petitioner's stall was proposed to be shifted as per the choice given by her towards Kurla end below the escalator. However, even the said location was coming between the halt points EMU.

13) By order dated 9 February 2022 issued by the Divisional Ofceof Central Railways, it was decided to shift total 8 stalls from Platform Nos. 9 and 10 and Platform No. 11 at Dadar Station to decongest the platforms and facilitate free passenger movement on those platforms. Letter dated 9 February 2024 addressed by Senior DCM (Works), CSMT, Mumbai to Station Manager, Dadar Station reads thus:

**CENTRAL RAILWAY**

**Divisional Ofce, Commercial Branch, Mumbai CSMT**

NO. BB.C.159.CO.Shifting.DR

Date : 09-02-2024

SM & CCI

Dadar Station

**Sub** : Relocation of stalls/units on PF No.9/10 (old PF No.3/4) & PF No.11 old PF No.5) at Dadar Station.

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With reference to the above subject, it is to inform that in order to decongest the Platforms & facilitate free passenger movement on PF No.9/10 (old PF No.3/4) & PF No. 11 (old PF No.5) at Dadar Station, competent authority has decided to relocate the undermentioned stalls from PF No.9/10 (old PF No.3/4) & PF No.11 (old PF No.5) in public interest, as per the details provided as under :

You are hereby advised to advise the concerned licensees to ensure relocation of the subject units from the existing locations to the new locations as per details provided above & copy of sketch enclosed herewith. The aspect of engineering ongoing engineering works may be taken into view while planning relocation.

**(B. Arun Kumar)**



**Sr.DCM (Wks)****CSMT Mumbai**

- 13) Thus, as against the Feasibility Report dated 7 November 2022 prepared at local level in Dadar Station, this time a policy decision appears to have been taken in the office of Divisional Railway Manager to relocate 8 stalls on two platforms of Dadar Railway Station for decongesting the said platforms and for facilitating free passenger movement. Thus, as against the isolated issue of relocation of Petitioner's stall, now a policy decision is taken in respect of as many as 8 stalls. What is important to note in the order dated 9 February 2024 is the fact that all 8 stalls are directed to be shifted beyond E.M.U. halt points. Thus, a uniform policy decision is taken to shift all 8 stalls beyond the limits where the local trains halt on the said two platforms at Dadar Station.
- 14) In our view jurisdiction of this Court under Article 226 of Constitution of India cannot be extended to interfere in such policy decision taken by Railway Administration to decongest the platforms and to facilitate free passenger movement at Dadar Station, which is one of the busiest railway stations in Mumbai City. It is a matter of common knowledge that during peak hours, severe congestion is caused on platforms, particularly at Dadar Station on account of lakhs of passengers boarding and alighting local trains. In such situation, if Railway Administration has taken a policy decision for shifting of 8 stalls beyond the halt points of local trains, this Court would not be in a position to interfere in such policy decision especially when the same is taken in the interest of passengers.
- 15) Mr. Khandeparkar does not dispute the intention of Railway Administration in decongesting the subject platforms and need to relocate Petitioner's stall from current location. He however submits that the same ought to have been relocated at a spot agreed by the Feasibility Committee. We are unable to agree. Firstly, the Feasibility report, though authored by some of the Railway officials, appears to have been prepared on the basis of location showed by Petitioner. The said report thus appears to be more in the nature of 'agreement' expressed by Petitioner rather than a 'decision' taken by railway administration for relocation of the Stall. Secondly, the Report considers limited issue of relocation of Petitioner's Stall whereas what is done by the Divisional Office by order dated 9 February 2024 is a holistic decision to relocate as many as 8 stalls at Dadar station beyond E.M.U. halt points. Therefore, the larger uniform policy decision taken by the Divisional Office

cannot be set at naught on the basis of a Feasibility Report prepared by officials at local level that too based on agreement of Petitioner.

- 16) Reliance of Mr. Khandeparkar on judgment of the Apex Court in **Senior Divisional Commercial Manager, South Central Railways** (supra), would not assist the case of Petitioner. In para-29 of the judgment, the Apex Court has held as under:

The chances of such persons being deprived of their right to livelihood is also an important factor which has to be taken into consideration by this Court to interpret the policy framed by the appellants. The callous attitude as far as the inaction on the part of the State in tackling the problem of rising unemployment is appalling. The situation is made worse by the handing over of public functions to private entrepreneurs, which then exploit the policies of the Government against the poor and downtrodden people of the country. If the appellants under the guise of the Policy are permitted to deny renewal of licences in favour of the licensees, it would amount to deprivation of their right to freedom of occupation guaranteed under Article 19(1)(g) of the Constitution as well as the right to livelihood, which action of the appellants would be diametrically opposed to their constitutional duty towards social justice as well as uplifting the weaker sections of the society and the unemployed youth of the country

- 17) No doubt, the judgment in **Senior Divisional Commercial Manager, South Central Railways** is rendered by the Apex Court in relation to allotment of catering stalls on railway platforms and has also taken into consideration the issue of deprivation of right to livelihood to weaker sections of society. The Apex Court has held that chances of such persons being deprived of their right to livelihood is an important factor to be taken into consideration. However, in the facts of the present case, we are unable to comprehend as to how the decision of the Railway Administration to shift Petitioner's catering stall at site beyond E.M.U. Halt points would deprive right of livelihood to her. Railway platforms exist mainly for traveling passengers and free flow passenger movement and their safety is paramount than the business interest of the Petitioner in operating the catering stall. If the Railway Administration believes that for ensuring decongestion and free flow of passenger movement, catering stalls must be shifted beyond E.M.U. halt points, the private interest of the Petitioner, of securing better profits from her stall, must yield to the interest of lakhs of passengers using platform.

- 18) Mr. Khandeparkar's reliance on para-1.1 of the Catering Policy, 2010 and his complaint about location of proposed site near the Urinal is again completely

misplaced. Perusal of the Sketch placed on record by Petitioner herself would indicate that between the Urinal and Petitioner's proposed site, two more stalls are proposed to be shifted. Thus, Petitioner's stall is not going to be in the immediate vicinity of the Urinal as sought to be falsely projected in the petition. Mr. Khandeparkar's reliance on the judgment of Apex Court in **Jacob Puliyeel** (supra) also does not cut any ice. The judgment in **Jacob Puliyeel** is delivered by the Apex Court on the issue of COVID-19 vaccination and the conclusions drawn by the Apex Court in para-93.3 in relation to Central Government's entitlement to regulate the issue of public health by imposing certain limitations on individual rights cannot be invoked in the present case. Under the garb of public health, Petitioner cannot be permitted to endanger the lives of lakhs of passengers.

- 19) Mr. Khandeparkar would submit that the willingness of other two stall licensees to shift at proposed sites cannot act as estoppel for Petitioner. While we do agree with this proposition in law, the location of two stalls between the Urinal and Petitioner's stall is highlighted only with a view to deal with Petitioner's argument of suggested location allegedly violating the objective of provision of hygienic food.
- 20) After considering the overall conspectus of the case, we do not find any valid ground to interfere in the impugned decision of the Railway Administration. Writ Petition, being devoid of any merits, is **dismissed** with no order as to costs. Rule is discharged.

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