

Worldwide Rail Journeys Pvt Ltd vs Rajasthan Tourism Development ... on 4 January, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 66/2023 & CM APPLs. 177/2023, 178/2023
WORLDWIDE RAIL JOURNEYS PVT LTD. Petitioner
Through: Mr. Gautam Narayan, ASC with Mr.
Satya Sabharwal, Advocate.

versus

RAJASTHAN TOURISM DEVELOPMENT CORPORATION
LTD. Respondent
Through: Mr. Shafiq, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER

% 04.01.2023

1. This hearing has been done through hybrid mode.
2. This matter has been listed today in the type supplementary list due to the urgency involved.
3. The Petitioner - Worldwide Rail Journeys Pvt. Ltd. had entered into a Memorandum of Understanding (MoU) with the Respondent - Rajasthan Tourism Development Corporation Limited (hereinafter 'RTDCL') dated 26th February, 2013 by which the Petitioner was appointed as a General Sales Agent for booking of tickets on the luxury trains 'Palace on Wheels' and 'Royal Rajasthan on Wheels' on a commission basis. The said MoU has been further renewed till 2024.
4. The case of the Petitioner is that the Respondent had announced a special promotion for bulk bookings on the train 'Palace on Wheels' for the years 2019-20 and 2020-21. The Petitioner is stated to have made several bookings for trips on said train during that period. However, due to the COVID-19 pandemic the said trips were cancelled.
5. Ld. Counsel for the Petitioner has referred to the letter dated 5 th August, 2022 by which the RTDCL had stated that the tours/ trips which were cancelled due to COVID-19 shall be shifted free of cost one time to the next years i.e. 2020-21, 2021-22 and 2022-23. In the said letter, the difference amount was stipulated as being liable to be collected from the Petitioner before the trip. The relevant part of the said letter is as follows:

"Sub:- Tariff & Commission for GSA booked cabins & cancelled tours due to Covid-19
In reference of your Jetter cited above subject it is stated that a office order No. 824 dated 15-07-2020 has already been issued to shift the en bins free of cost one time for 2020-21, 2021-22 & 2022-23 for cancelled tours due to covid-19. Further its is also stated that the tariff will be applicable & chargeable on the day/tour commence, difference amount will be collected before tour starts as per policy commission rate shall 'be applicable as per booking policy effective at the time of original booking Of cabins/pax. This bears the approval of competent authority."

6. The Petitioner's urgency today is that there are 18 passengers who are foreign nationals whose bookings were among the aforementioned bulk bookings and were shifted to the year 2022-23. The trip of these passengers on the train 'Palace on Wheels' has to commence today i.e. 4 th January, 2023 at 4:30 p.m. and the RTDCL is raising a demand of Rs.60 lakhs as additional payment for allowing the said passengers to board the train today.

7. It is the case of the Petitioner that the amount of Rs.60 lakhs being demanded by the RTDCL is unilateral and arbitrary inasmuch as the earlier amounts which were deposited qua these very passengers were not refunded by the RTDCL and their booking had been transferred to the next year. According to the Petitioner, it would not be permissible for the RTDCL to charge further amounts. Further, it is submitted by the Petitioner, that the demand of Rs.60 lakhs is not tenable inasmuch as there are various discrepancies in the accounts of the Petitioner and the same is not being reconciled.

8. On behalf of the RTDCL, Mr. Shafiq, Id. Counsel appears virtually and submits that the obligation to pay is upon the Petitioner and the difference amount has to be deposited, failing which, the RTDCL is entitled to stop the passengers from boarding the train.

9. The Court has considered the matter and has heard the Id. Counsels for the parties. It is noted that the total amounts paid by the Petitioners as per the writ petition is as under:

10. A perusal of the above payments which are made by the Petitioner, shows that the said payments were made as far back as in 2019 and additional sums had been deposited in October, 2022 and December, 2022. Further, the amount of Rs.60 lakhs being demanded at this stage, has not been demanded in writing by the RTDCL.

11. An e-mail of today at 12.53 pm has also been placed on record by the Id. Counsel for the Petitioner which reads as under:

"This has reference to the Without Prejudice Letter dated 03-01-2023 received from your lawyer Shri Satya Sabharwal and addressed to Chairman, RTDC with respect to various departures booked and advance money paid by M/s WRJ Pvt. Limited for tours on the Palace on Wheels.

This matter is being examined and relevant documents are being reconciled to address the issues conveyed in the above letter, which is expected to take at least 10 days time. Meanwhile, you may deposit the pending amount under protest for the tour booked on POW starting from 04-01-2023 evening to ensure boarding of your guests on the POW. alternatively, you may also submit an undertaking with respect to the amount under protest that the same will be deposited in case there are recoveries against M/s WRJ after reconciliation of the accounts."

12. A perusal of the above e-mail would show that the RTDCL has directed the Petitioner to deposit the pending amount under protest or give an undertaking with respect to the amount under protest recording that the same would be deposited after reconciliation of accounts.

13. At this stage, ld. counsel appearing for the Petitioner submits that the second condition of giving the undertaking is acceptable to the Petitioner and the Petitioner is willing to give an undertaking that any amount which may be directed by RTDCL upon reconciliation of the accounts would be deposited by the Petitioner.

14. Considering that there are 18 passengers who have to board the train 'Palace on Wheels' and begin their journey today and the overall facts and circumstances of this case, the following directions are issued:

i) The Petitioner shall deposit Rs.15 lakhs by 5th January, 2023 with the Respondent - RTDCL by way of a demand draft;

ii) The Petitioner and the RTDCL's officials shall reconcile the accounts and a report shall be placed on record by the next date of hearing. A meeting for the said purpose shall be held tomorrow i.e. 5th January, 2023 at 3:00 pm, in the office of the Respondent;

iii) Subject to the above undertakings being complied with by the Petitioner, the Petitioner's passengers who are 18 in number are permitted to undertake their journey today i.e. 4th January, 2023 at 4:30 p.m.;

iv) An affidavit of the Petitioner's authorized official shall also be placed on record to the effect that any amounts as may be directed by this Court shall also be deposited.

v) The said undertaking shall be filed by Monday i.e. 9th January, 2023.

15. The above directions are subject to the outcome of the present writ petition.

16. List on 11th May, 2023.

17. A copy of this order be given dasti under signatures of the Court Master.

PRATHIBA M. SINGH, J.

JANUARY 4, 2023 Rahul/KT