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

+ W.P.(C) 8206/2007

% **Date of decision : 23rd Novemebr, 2009.**

DURGA TRAVELS & TOURS & ANR Petitioners
Through Mr. K.L. Nalwani, Advocate.

Versus

UOI & ORS Respondent
Through Mr. S.R. Narayan, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

1. The petitioner No.1, M/s. Durga Travels and Tours, a partnership firm, has challenged by way of present writ petition, the order dated 30th October, 2007, cancelling their Railway Travellers Service Agents license.
2. The respondents in the counter affidavit have pointed out that the Vigilance staff of the Railway Board during the course of preventive check on 19th March, 1997, had apprehended Mr. Raj Kumar, authorized agent of the petitioner with 33 tickets. Rail Travellers Agents Rules, 1985 had been

violated and the petitioner's license was suspended for 30 days vide order dated 7th October, 1998 and charges were also framed against Mr. Raj Kumar by the special Railway Magistrate vide order dated 12th August, 1997. The learned special Railway Magistrate had observed that it was unfortunate that an authorized license holder was involved in malpractices causing inconvenience to the general public and was acting contrary to the terms of the license.

3. Subsequently, another employee of the petitioner, Mr. Ashok Kumar was apprehended on 6th April, 2002 and fine of Rs.800/- was imposed.

4. On 28th May, 2005, Mr. Raj Kumar, an employee of the petitioner was found to be carrying a bundle of requisition slips and railway tickets for cancellation. It was noticed that addresses mentioned in the requisition forms did not tally with the addresses given in the booking register and 9 tickets did not have entry in the booking register maintained by the petitioner. Accordingly, a show cause notice dated __.08.05 was issued to the petitioner. By the said show cause notice, the petitioner was asked to submit their reply why action should not be taken against them under Rule 6 of the Rail Travellers Agents Rules, 1985. In the statement of misconduct/non-

compliance, it was mentioned that during the course of preventive check by the Vigilance staff of the Railway Board in the reservation office at Kirti Nagar, New Delhi, irregularities were found on the part of the petitioner, which clearly attracted and violated the Rules and Agreement. It is no doubt correct that the statement of misconduct/irregularities could have been better worded and more detailed. In fact specific allegations should have been made against the petitioner. However, the petitioner was not prejudiced because of lack of details and particulars in the show cause notice. The petitioner was fully aware of the facts and what had happened pursuant to the surprise check conducted by Vigilance staff of the Railway Board. In reply to the show cause notice dated 15th September, 2005, the petitioner gave their explanation stating inter alia, that keeping in view the urgency, clients, had given booking on telephone and the petitioner had send their employee directly for reservation even without requisition slip being filled up by the client and details were incorrectly recorded in the requisition slip. They have also admitted that required entries in the register were not made. The petitioner apologized for their irregularities and had stated that in future they shall take all precautions so that such incidents were not repeated.

5. The reply was considered and by the belated order dated 30th October, 2007, the license was directed to be cancelled and the petitioner was black listed. This order should have been passed earlier, but mere delay in passing of the order, cannot be a ground to set aside the impugned order in the facts and circumstances of the present case. The petitioner had virtually admitted their fault in the reply to the show cause notice dated 15th September, 2005. The impugned order dated 30th October, 2007, specifically records that the requisition forms found in possession of Mr. Raj Kumar, had addresses which did not tally with the addresses in the booking register and nine tickets had no entry in the register. There was clear violation of terms and conditions of the license. This was the third occasion when the petitioner was found to be at fault and violating the Rules. In these circumstances, I do not find any merit in the present writ petition and the same is dismissed. No costs.

SANJIV KHANNA, J.

NOVEMBER 23, 2009
NA/P