

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15504 of 2015

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Kameshwar Mahto S/o Sri Raja Mahto Resident of Mohalla Brahmpura, P.O. M.I.T. Brahmpura, P.S. Brahmpura, District Muzaffarpur, the Speaker, District Motor Federation having its office at Gobarsahi Chowk, N.H. 28, Muzaffarpur, District Muzaffarpur.

.... Petitioner/s

Versus

1. The Union of India through the Ministry of Road Transport and Highway, Government of India, New Delhi.
2. The Secretary, Road Transport and Highway Department, Government of India, New Delhi.
3. The Director, National Highway Authority of India, New Delhi.
4. The Project Director, Project Implementation Unit, Muzaffarpur.
5. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
6. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. Gyan Prakash Ojha, G.A.-7
For N.H.A.I.	:	Mr. S.N. Pathak, S.C., N.H.A.I.
For the U.O.I.	:	SMT. Nivedita Nirvikar, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-05-2017

In this Public Interest Litigation filed, grievance of the petitioner is with regard to recovery of fee, toll and cess, in National Highway No.28 between Muzaffarpur to Barauni.

It is stated that under the provisions of the National Highways Fee (Determination of Rates and Collection) Rules, 2008, certain fees are being collected by the National Highways Authority.



That apart toll to recover the construction cost of the road is also being recovered by the National Highways Authority and cess has been collected by the State Government with regard to road in question.

As far as collection of toll is concerned, the same is in accordance to the statutory provision and no case for interference into the same is made out. As far as collection of the fee under the National Highways Fee (Determination of Rates and Collection) Rules, 2008 is concerned, Smt. Nivedita Nirvikar, learned counsel appearing for the Central Government, points out that for the road in question this has not been enforced. She also points out that the National Highway Authorities have been initiated process for collection of the fee under the aforesaid statute.

Sri S.N. Pathak, Standing Counsel, appearing for the National Highways Authority of India brings to our notice an order dated 16.6.2014 passed by a co-ordinate Bench of this Court in Civil Writ Jurisdiction Case No.4671 of 2014 (Thakur Mallah vs. The Union of India & ors.), where similar prayer made for restraining collection under the National Highways Fee (Determination of Rates and Collection) Rules, 2008 has been rejected after considering the fact that there is no illegality in fixing the same fee for two lane or four lane road.



Keeping in view the aforesaid judgment rendered on 16.06.2014 in Civil Writ Jurisdiction Case No.4671 of 2014, we see no reason to make any indulgence to the prayer made in the matter of fixation of same rate of fee for two lane or four lane road. The aforesaid prayer stands rejected. As far as step is concerned, it is collected in accordance to statutory provision, which has been upheld and permissible under law and, therefore, we find no substance in the writ petition warranting consideration.

The same is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.05.2017
Transmission Date	

