

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) PIL No.1864 of 2018

Sanjaya Kumar Nanda

....

Petitioner

Mr. B. P. Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Pravat Kumar Muduli, AGA

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIAK**

Order No.

**ORDER
02.08.2022**

03.

1. A resident of District Sundargarh has filed this petition by way of a Public Interest Litigation (PIL) questioning a public notice issued by Opposite Parties State for collection of User Fees (Toll) for stretches of the State Highway-10. The fees were payable at three Toll Plazas. It is specifically contended that the fees for the Toll Plaza-02 (Masunikani) has been fixed in the manner that causes inconvenience to the local users.

2. This petition was listed just once on 26th March, 2018 when learned Additional Government Advocate appearing for the State sought time for instructions. Thereafter, the petition has been listed only today. During this entire period, there has been no stay of the impugned Notification fixing the Toll fees.

3. A reply has been filed to the petition by the Superintending Engineer, North Circle (R & B), Sambalpur (Opposite Party No.2). It is pointed out that a road corridor known as the “Biju Expressway” has been opened, which connects Rourkela to

Jagdalpur in a stretch of 650.64 Kilometers. The said road connects eight districts, out of which, a stretch of 183.20 Kilometers has been developed by the National Highways and the State NH wing.

4. As far as the present petition is concerned, it pertains to a part of the Biju Expressway having length of 162 Kilometers from Rourkela to Sambalpur and constructed under PPP mode with the project cost of Rs.1293 Crores. A tender was floated and finally, it was awarded to the L&T Sambalpur-Rourkela Tollways Limited (Opposite Party No.4), the Concessionaire. An agreement was entered into with it by the Government.

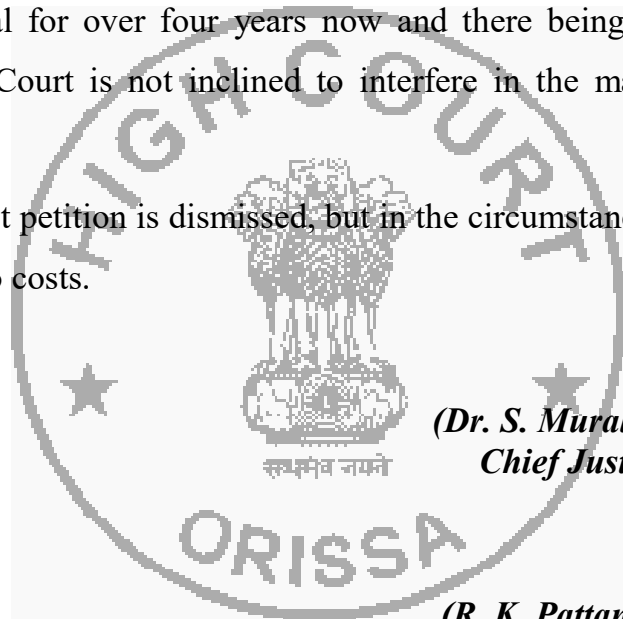
5. As regards the Toll fees, it is submitted that the Notification dated 23rd June, 2011 was issued by the Government in exercise of the powers conferred under Section 13 of the Odisha State Roads Tolls Act, 2010. It is further stated that the final Toll notice was issued on 12th March, 2018 making toll effective from 13th March, 2018 consistent with the Articles 14 and 15 of the Concession Agreement. On the rates fixed, it is stated as under:

“The Toll Plaza (Km 17.025) at Nuakhurigaon, Toll Plaza (Km 71.853) at Musakani and Toll Plaza-III (Km 150.075) at Laing have been installed in consonance with the provisions of Orissa State Roads Tolls (determination of rates and collections) Rules, 2011. The rates have been fixed as per the rules taking in to account the distance of coverage made by the said Toll Plaza. Accordingly, Toll Plaza No. I covered a length of 45.69 Km., Toll Plaza No-II covered a length of 71.35 Km and toll Plaza No- III covered a length of 44.69 Km of the Project Highway. Since the user fees is fixed as per the distance covered under the respective Toll Plazas, the user fees of Toll Plaza No-II situated at Musakani is higher than the user fee fixed for other two Toll Plazas. It is further submitted that all the local users with

non-commercial vehicles residing within 20 KM radius of any Toll Plaza are getting discount with monthly pass of Rs.210/- only which is very nominal of amounts of Rs.7/- per day. The people residing 20 KM radius of Sundargarh Toll Plaza are getting this discount benefits. Similarly, all frequent user who are crossing any Toll Plaza are also getting discount in the user free with an amount of 2/3rd rate of single journey for 50 times in a month.”

6. Although the counter affidavit filed way back on 27th April, 2018, there has been no rejoinder affidavit filed to contradict any of the above averments. With the tolls having already been operational for over four years now and there being no interim stay, the Court is not inclined to interfere in the matter at this stage.

7. The writ petition is dismissed, but in the circumstances, with no order as to costs.



(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda