

24.03.2023
rc/ct.no.10
Item No.277

WPA No. 1967 of 2023

Mr. Saptarshi Roy
Mrs. Kakali Das Chakraborty ...for the petitioner

Mr. Amal Kumar Sen
Mr. Jaladhi Das
Mr. Swapan Pal ...for the State

Mr. Ajit Kumar Mishra
Mr. Ramen Bose
Mr. Abhishek De ...for the respondent nos. 1 to 4

Heard learned counsels appearing on behalf of the parties.

It is submitted on behalf of the petitioner that the petitioner is engaged in the business of transportation of goods through railways across the country and have carrying capacity of 23 tons in train no. 22905/22906. The petitioner loaded consignment of 18170 kgs. at Rajkot Station where the consignment was weighed by the railway officials and an endorsement made to that effect. Upon the consignment reaching Shalimar on January 10, 2023 it was found upon re-weighment that the parcel van was overloaded by 2.2 tons. A punitive demand to the tune of Rs.63,134/- for overloading was charged which the petitioner paid on protest.

It is submitted on behalf of the petitioner that such re-weighment was not made in presence of the petitioner or his authorised representative and the alleged overloading may be due to an error in the in motion

weighing machine or excess weight of the parcel van which carried the consignment.

Learned counsel for the railway authorities produces a certificate issued by the Legal Metrology Officer which demonstrates that the machine was checked on 21st January, 2023 and the next verification is due to 27th January, 2024.

Learned counsel for the petitioner draws the attention of this Court to a circular issued by the railway authorities on 14th June, 2022 which demonstrates that in the event of detection of overloading on more 2 occasions in any one contract, the contract shall be terminated with forfeiture of security deposit. The petitioner prays for a direction upon the authority to reweigh the empty parcel van and check the in motion weighing machine at Shalimar in order to ascertain whether there was actual overloading.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since re-weighment at Shalimar was done behind the back of the petitioner, the writ petition be disposed of directing the 4th respondent to reweigh the empty parcel van as referred to earlier and check the in motion weight machine at Shalimar in presence of the petitioner and the Controller of Legal Metrology, being the 5th respondent herein or his authorised agent within four weeks from the date of communication of this order.

Since the petitioner has already paid the punitive charge on protest it is expected that in the event the weight of the empty parcel is found to exceed the normal limit and/or the in motion weight machine is found to be defective, the punitive charges imposed on the petitioner be refunded to him within one month from the date of detection thereof.

The 4th respondent or any other officer authorised by him shall communicate the place, time and date of weighment/ inspection directed earlier to the 5th respondent or his authorised representative and the petitioner at the earliest.

Pending such exercise no coercive measure shall be taken by the 4th respondent against the petitioner in connection with the consignment/ over loading in question.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)