

W.P.A. No. 8254 of 2014

Dibakar Karan
Vs.
Union of India & Ors.

Mr. Syed Julfikar Ali
Mr. Syed Farhin Zaman
...for the petitioner

None appears for the respondents when the matter is called on for hearing.

Learned counsel for the petitioner cites an unreported judgment of a co-ordinate Bench dated March 2, 2017, inter-alia, dismissing the present writ petition for default (along with others).

In the said order, however, a similar writ petition was taken up as a test case and the writ petition was disposed of on merits on the finding that the reason as to why the abrupt enhancement to the occupation charges were made had not been given while passing the order impugned therein.

As such, such enhancement was set aside.

It is seen that in the present case as well, which was one of the writ petitions dismissed for default along with the other matters by the said order as indicated above but restored later, the subject-matter is identical with the matter which was disposed of on merit.

Even in the present case, no reason whatsoever has been provided by the respondent authorities for the sudden enhancement of the rate of occupation charges of the petitioner with regard to the stalls owned by the petitioner on railway property.

In fact, the enhancement effected was to the tune of Rs. 2,52,775/-, which is palpably exorbitant and without any rhyme or reason.

In such view of the matter and following the ratio as laid down in the unreported judgment as cited by the petitioner, WPA 8254 of 2014 is allowed, thereby setting aside the impugned notice whereby the rate of occupation charges of the petitioner was enhanced. Accordingly, the said demand notice dated October 22, 2013 (annexure-P6 at page-39 of the writ petition) stands quashed.

However, this order shall not prevent the respondent authorities from subsequently enhancing the rate of occupation charges in accordance with law and upon prior notice to the petitioner.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)