

20.12.2023
rc/ct.no.10
Item No.593

WPA No. 27978 of 2023
Shabbu Miya
Versus
Union of India & Ors.

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

Mr. Sanajit Kumar Ghosh ...for the UOI

Instructions submitted on behalf of the railway authority is taken on record.

Heard learned counsels appearing on behalf of the parties.

It is submitted on behalf of the petitioner that an order passed by a coordinate Bench of this Court on a similar issue on 6th July, 2022 was carried in appeal by the Railway Authorities before an Hon'ble Division Bench of this Court and in considering the said appeal the order under challenge has been stayed by the Hon'ble Division Bench. The Hon'ble Division Bench has, however, recorded an interim measure which is applicable on consignment to consignment basis pending disposal of the appeal. The relevant portion of the order is set out below :-

“However, as an interim measure we order that on a consignment to consignment basis, the respondents shall be free to approach the appellant Railways with a representation that the cargo or a part of it is perishable in nature and that the whole of any portion thereof be allowed to be loaded into the

wagons not beyond four hours of departure of the train. The representation may also include the necessity of loading the cargo from the platform.

If such request is made by the respondents not later than 12 hours before departure of the train the Railways shall consider it fairly, reasonably and within the shortest period of time, not later than 6 hours before the departure of the train in accordance with law, particularly the 2014 Parcel Van Leasing Policy.”

Learned counsel for the petitioner prays for a similar interim order in this writ petition and also draws the attention of the Court to a circular issued by the Eastern Railway on 3rd February, 2023 which allows platform loading of perishable packages to the extent of 5 tons subject to certain terms and conditions.

Learned counsel for the petitioner prays for an order in terms of the interim measure laid down by the Hon’ble Division Bench as well as the circular dated 3rd February, 2023.

Learned counsel for the respondents places reliance on a circular issued by the Eastern Railway on 20th March, 2023 which demonstrates that implementation of the circular dated 3rd February, 2023 is subject to the decision of the Hon’ble High Court at Calcutta.

Learned counsel takes this Court to Clause 27.9 of the Comprehensive Parcel Leasing Policy of the railways

issued on April 15, 2014 which indicates that weighment of parcel vans (VPHs/VPs/VPU's etc.) should be done once preferably at the landing station or at the destination station on an in motion weighbridge. As the in motion weighbridges are certified by the concerned departments of State Government from time to time, second weighment should not be permitted on party's request.

Learned counsel also submits that the in motion weigh bridge is situated at the yard in Howrah station.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since the appeal pertaining to the similar issue as in the present writ petition is pending before the Hon'ble Division Bench the interim measure laid down by the Hon'ble Division Bench be made applicable to the petitioner until further orders of the Hon'ble Division Bench.

In view of the subsequent circular issued by the Eastern Railway on March 20, 2023 the implementation of the Circular dated February 03, 2023 has to await the decision of the Hon'ble Division Bench.

Since the appeal is pending, let this matter go out of list with liberty to mention.

(Suvra Ghosh,J)