

06.01.2023
rc/ct.no.10
Item No.107

WPA No. 29148 of 2022

Mr. Saptarshi Roy	
Mrs. Kakali Das Chakraborty	..for the petitioner
Mr. Dwijadas Chakraborty	for the UOI
Mr. Amal Kumar Sen	
Mr. Swapan Kumar Pal	 for the State

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

Heard learned counsels appearing on behalf of the parties.

It is contended on behalf of the petitioner that the petitioner is a registered lease holder with the Indian railways and is engaged in the business of transportation of goods through railways across the country, petitioner being entitled to transport consignment within the limit of 23 tons.

Learned counsel for the petitioner submits that while loading the consignment at Porbandar, the consignment was weighed and found to be within the tolerable limits. However, upon the consignment reaching Shalimar it was reweighed and found to be overloaded by 8.13 tons. Punitive charge of Rs.4,99,855/- was demanded from the petitioner which was paid by the petitioner on protest. The petitioner submits that the consignment showed alleged overloading either due to increase in the weight of the

empty parcel van which carried the consignment or due to defect in the in-motion weighing machine in which the consignment was weighed. The petitioner prays for a direction upon the authority to examine the in motion weighing machine at Padmapukur, Shalimar and re-weigh the empty parcel van bearing no. VPH-8E-118832 attached to the train no. 12905-12906 in terms of Section 79 of the Railways Act 1979.

It is contended on behalf of the railways authority that the in motion weighing machine has been checked and verified by the Metrology Department and is found to be functioning properly.

It is submitted by the learned counsel appearing on behalf of the 5th respondent that he has no instructions in this regard.

Upon consideration of the submission made on behalf of the parties, the writ petition is disposed of directing the 4th respondent to reweigh the empty parcel van as referred to earlier and check the in motion weighing machine at Padmapukur, 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 charges on protest, it is expected that in the event the weight of the empty parcel van is found to exceed the normal limit and/or the in motion weighing machine is

found to be defective, the punitive charges slapped 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 the weighment/inspection directed earlier to the 5th respondent or his authorised representative and the petitioner at the earliest.

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)