



\$-

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ W.P.(C) 8545/2017 & CM APPLs. 5840/2019

Between: -

RAZIA SULTAN

W/O SH AMARDEEP KUMAR,

R/O FLAT NO. 107, HOUSE NO. 71/9

KISHANGARH, VASANT KUNJ, NEW DELHI

.....PETITIONER

(Through: Mr. Umesh Sharma, Mr. Dinesh Kumar & Mr. Ritesh Kumar, Advocates)

AND

1. UNION OF INDIA

THROUGH THE SECRETARY,

MINISTRY OF RAILWAYS,

RAIL BHAWAN,

NEW DELHI

.....RESPONDENT NO.1

2. SENIOR DIVISIONAL COMMERCIAL MANAGER,

DRM OFFICE, DHANBAD,

DIST.-DHANBAD,

PIN-826001

.....RESPONDENT NO.2

(Through: Mr.Virender Pratap Singh Charak, Ms.Subra Parashar, Advocates.)

%

Reserved on: 18.07.2024

Pronounced on: 06.08.2024

Signature Not Verified

Digitally Signed
By:MAANAS JAJORIA
Signing Date:06.08.2024
19:27:35

Signature Not Verified

Digitally Signed
By:PURUSHAINDRA
KUMAR KAURAV

J U D G M E N T

The petitioner, in the instant writ petition, is aggrieved by the inaction of the respondents on her complaint and has restricted her prayer to the following relief:-

“1. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction in favour of the petitioner and against the respondents thereby directing the respondents to hold enquiry into the incident and take action against the responsible officials on the basis of the complaint w.r.t change of the coach in train No 28624, Bakarkana Express on 6/7/2017 from Kodarma station to Patna lodged by the Petitioner vide Form G-234, Serial No. 18072, lodged with the Station Master, Patna.”

2. The facts of the case exhibit that the petitioner had planned to travel from Kodarma, Jharkhand to Patna, Bihar *via* train bearing no. 28624, Barkakana Express on 06.07.2017. In pursuance of the same, she got her travel ticket issued and the seats were reserved in S-9 coach. The train was slated to depart from the Koderma Station at 01:20 am and the petitioner was present at the platform with her husband and minor child to board the train.

3. It is stated that since the display board showing location of train coaches was not working, the petitioner stood at the designated place of S-9 coach. However, upon arrival of the train, the petitioner found that the said coach, instead of being placed adjacent to S-8, was placed in the front part of the train near engine. Since the train was scheduled to halt for a very short duration, the petitioner with her minor child in lap and her husband with luggage, ran towards the front part of the train.

4. It is further stated that in a rush to catch the train, the petitioner fell down and her husband could only manage to keep the luggage and the child in some other coach. In the meantime, the husband rushed to

both, the petitioner and her husband, failed to board the same. However, upon intervention of some passengers onboard the train, the chain, for stopping the train, got pulled and the petitioner succeeded to board the train alongwith her husband.

5. Being aggrieved by the tragic incident where the petitioner was on the verge of losing her child, on 12.07.2017, she lodged a complaint on the web portal of the Indian Railways. However, since the said complaint has not been satisfactorily dealt with by the respondents, the petitioner has filed the instant writ petition.

6. Mr. Umesh Sharma, learned counsel appearing on behalf of the petitioner submitted that the respondents have failed to give a serious consideration to the complaint filed by the petitioner. According to him, despite being under a statutory obligation to provide the relevant information to the passengers regarding all the contingencies, the Railways has miserably failed to perform their duty.

7. He further submitted that due to the negligence of the Railways, the petitioner along with her husband and child had to face such a traumatic situation and, therefore, the accountability of the erring officials must be fixed. He also submitted that before filing the complaint on the web portal, the petitioner also submitted a written complaint with the station master at Patna on 06.07.2017. He, therefore, contended that the respondents ought to have given a thoughtful consideration to the complaint filed by the petitioner and the same should not have been lightly brushed aside.

8. *Per contra*, Ms. Subra Parashar, learned counsel appearing on behalf of the respondents submitted that the complaint filed by the petitioner was resolved and a copy of the disposal of the same is attached as *Annexure RII* to the present petition, which was also sent

to the petitioner *vide* letter dated 01.12.2017. It is the contentions of the

respondents that the petitioner should have consulted enquiry office at the station before the arrival of the train to eliminate the alleged inconvenience caused to her.

9. Learning counsel submitted that the respondents cannot be said to be at fault when the petitioner herself has been negligent in taking due precautions. According to her, the information regarding the coach position is very well available in advance at the enquiry counter and the petitioner should not have come immediately before the arrival of the train. She, therefore, submitted that no negligence can be attributed to the respondents on account of omission on the part of the petitioner to take due measures.

10. I have heard learned counsel appearing on behalf of the parties and perused the record.

11. The short controversy involved in the present case pertains to the manner of redressal of the complaint lodged by the petitioner.

12. At the outset, the Court is mindful of the scope and extent of deciding cases while exercising writ jurisdiction which proscribes being entangled in detailed factual complexities. Bearing in mind myriad of issues being posited for adjudication each day, the writ courts cannot be expected to plunge into the factual accuracy which could overshadow systemic concerns of general public importance. Undeniably, it is germane to check that the extraordinary and discretionary remedy under Article 226 of the Constitution of India is not bogged down by the convolutions of detailed fact-finding, which are better suited to be redressed through other judicial or quasi-judicial processes.

13. However, at the same time, the Court cannot remain oblivious of the legal or procedural infractions by the administrative authorities

public authorities adhere to the legal standards. The self-imposed restrictions while exercising writ jurisdiction cannot always be an impediment in resolving issues which reek of arbitrariness in decision making process. Given the limited judicial resources, the writ Courts must also ensure that individual fundamental or legal rights are enforced swiftly and the public authorities act in their lawful bounds. It is equally well-settled that when dealing with the conduct of administrative agencies, strict limitations to statutory rules are not necessary for judicial review by this Court.

14. In the instant case, the petitioner has primarily contended that despite there being negligence on the part of the respondents, they have failed to fix any accountability and summarily disposed of the complaint. The recitals of the translated copy of the complaint dated 06.07.2017, filed by the petitioner, is reproduced as under:-

"Date: 06/07/2017 Station Koderma Train No. and Place 28624

*Name & Address of the Complainant Rajiya Sultan, Flat No - 107,
H.No. 71/0, Kishangarh, Vasantkunj, Mob: 9250745158*

Phone & Mobile. No.9250745158 /8.802818164 (PNR. No. 6203394856)

Nature of Complaint: I, My husband and my 7 yrs. daughter were travelling in train no 28624. Train was on time at 1 .20 am. Our seat was in coach no 89, so we were standing at last in platform. But when train came S9 was not after S8. It was in opposite direction (in beginning, after engine). We ran very fast to reach S9 but we failed. We also tried to board in some other coach but all the doors of other coaches, were locked. Then we saw one coach which door was open. As soon as my husband kept one luggage inside train and helped our daughter to get inside the coach, train started and it caught its speed. I and my husband both were running in platfomi and were requesting tiie passenger inside train to pull- the chain. GRPF were also there and they were also watching the whole scene. Finally someone pulled the chain and when we boarded in train, we asked GRPF that why didn't they helped us they replied that it's not their responsibility to pull the chain.

Signature Not Verified
Digitally Signed
By:MAANAS JAJORIA
Signing Date:06.08.2024
19:27:35

Name & Address of Witnesses (if any)

Signature Not Verified
Digitally Signed
By:PURUSHAINDRA
KUMAR KAURAV

Signature of the Complainant

Action taken

Signature & Designation of Official-in-Charge”

15. It is seen that the petitioner had also lodged a complaint on web portal of the respondents, which was referred to the concerned Department for rectification, however, no substantial action appears to have been taken on such complaint. Rather, the disposal letter dated 01.12.2017 merely seeks to offer a piece of advice to the petitioner to approach the enquiry counter before arrival of the train to ascertain the coach positions.

16. Further, a perusal of the reply filed by the respondents would suggest that admittedly, the coach indication board was non-functional on the day of the incident. The relevant extract of the reply reads as under:-

“4.11, 4.12 & 4.13 That in reply to the contents of the corresponding para of the petition it is submitted that there is no lapse on the part of railway. The petitioner is personally responsible for alleged incidence or inconvenience faced. She should have consulted enquiry of station or other station officials well before arrival of the Train so as to be in comfortable position to board the train. Coach indication board is an electronic item and sometimes it fails but rectified at the earliest. On the material date coach indication board had gone out of order but coach position was available with enquiry office. Had she visited enquiry office she would had been well informed and no inconvenience caused to her.”

17. It is thus discernible from the reply of the respondents that there is no doubt in the genuineness of the complaint filed by the petitioner and the same appears to be reasonable. The Railways, falling in the definition of the State, was duty bound to ensure proper functioning of the coach display indicators and in case of any default, it ought to have

appropriately redressed the grievance of the petitioner. It is said

authority cannot be reasonably expected to dispose of a specific complaint in a routine manner without providing any cogent explanation to the same. The disposal letter neither suggests that any effort was made by the respondents to ascertain the liability of the concerned official nor it provides any measure which could help in evading such fatal situations in the future.

18. As a vital public authority, which transcends its logistical prowess to impact livelihoods of the common man in our country, Railways has a moral imperative to showcase prompt response to the concerns of the general public. The ubiquity of Railways as a multi-faceted institution carries with itself an underlying responsibility to reinforce public safety and seamless operation of its services.

19. The grievance in the present case essentially stems from an operational failure on the part of the Railways which has left the petitioner and her husband in peril, exposing to life risk. It is evinced from the record, and which has remained uncontroverted, that neither the coach position indicators were working nor the petitioner's coach was placed in a series which could be reasonably imagined by a prudent person. Therefore, if such issues are redressed haphazardly, as is seen in the case at hand, the same can snowball into larger operational challenges and the Railways could fail to instill public confidence. It is seen that the necessity to ensure prompt and valid delivery of public services is not just a norm of the good governance, rather the same has acquired a statutory force in the recent times.

20. Furthermore, the Supreme Court has long established the doctrine of legitimate expectation in Indian jurisprudence. This doctrine states that when a person has a reasonable expectation of certain conduct by an administrative agency, the latter would have an

expectation. The Supreme Court in *Ram Pravesh Singh v. State of Bihar*¹ has held that the term “established practice” refers to a regular, consistent, predictable and certain conduct, process or activity of the decision-making authority.

21. Reverting to the facts of the present case, it is discernible that not only there was a transactional relationship between the parties *qua* the travel transactions, but the petitioner also submitted two different complaints to the respondents. Thus, the expectation that the petitioner’s complaint will be dealt with and responded to is a trite and axiomatic practice. Unfortunately, taking into consideration the manner in which the complaint of the petitioner has been dealt with, it cannot be gainsaid that the Railways has ostensibly been unable to solidify its role as a trusted State entity and pillar of reliability.

22. Not only does the respondents have an obligation to ensure that its railway infrastructure is socially inclusive and accommodative of people from all backgrounds – though an obligation it has failed to comply with in the instance case – it must ensure prompt, effective and structured complaint resolution mechanisms which efficaciously ensure smooth and proper functioning of such mode of public transportation. The respondents’ submission that it *pro forma* forwarded the complaint to the relevant authorities does not inspire the obligation placed on it to ensure that the petitioner had her complaint heard and dealt with.

23. Therefore, looking at the controversy involved in the instant petition and the limited prayer made by the petitioner, the Court deems it appropriate to dispose of the petition with the following directions:-

Signature Not Verified

Digitally Signed
By: MAANAS JAJORIA
Signing Date: 06.08.2024
19:27:35

¹ (2006) 8 SCC 381

Signature Not Verified

Digitally Signed
By: PURUSHAINDR
KUMAR KAURAV

- i. The senior most officer in the concerned Railway Division shall give a *de novo* consideration to the complaint lodged by the petitioner.
 - ii. The respondents, after giving a thoughtful consideration to the issue at hand, shall pass a speaking order within four months from the date of receipt of passing of this judgment.
24. With the aforesaid directions, the petition stands disposed of alongwith the pending application(s), if any.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

AUGUST 06, 2024/p