

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction
Appellate Side

Judgment (2)
Moumita
Daily List Item No. 4

Present :
The Hon'ble Justice Aniruddha Roy

WPA 17681 OF 2025
DG Raj Highway Services

Vs.

The Union of India & Ors.

For the Petitioner	:	Mr. Saptarshi Roy, Adv. Ms. Kakali Das Chakraborty
For the State	:	Mr. Amitabrata Roy, Ld. (GP) Mr. Dipanjan Dutta, Adv. Mr. Shibasish Banerjee
For the Union of India	:	Mr. Dwijadas Chakraborty Mr. Partha Sarathi Mondal
Heard on	:	13.08.2025
Judgment on	:	13.08.2025

Aniruddha Roy, J.:

1. Upon urgency being pleaded, the matter has been mentioned and since the regular determination has been assigned before this court, this writ petition has been taken up for consideration by publishing the same in the daily cause-list.
2. Mr. Saptarshi Roy, learned advocate appears for the writ petitioner.
3. Mr. Dwijadas Chakraborty, learned advocate appears for the railways.

4. Mr. Sibasish Banerjee, learned state advocate led by Mr. Amitabrata Roy, learned Government Pleader appears for the state.
5. The writ petitioner carries on business as a career.
6. Pursuant to an e-auction held by the railways, the petitioner as the successful tenderer has sent its consignment through a leased out wagon from Tripura to Sealdah. The ceiling limit of capacity of the wagon is **23 tonnes** the petitioner contends that it had submitted one manifest before the concerned authority for sending the consignment for transmitting consignment for a total capacity of **1950 kgs.**
7. When the consignment reached at its destination at Sealdah station, upon weighing the same the railway found it to be more than **1950 kgs.** in excess. Accordingly, the railways has charged the penal charges and demanded a sum of **Rs. 52,000/-** for overloading by **1950 kgs.** as pleaded in Paragraph 12 of the writ petition.
8. By a representation dated **July 28, 2025 annexure p-5 at page 41** to the writ petition, the petitioner requested the railways for re-weighment of the consignment. The petitioner contends that no such re-weighment was done.
9. Mr. Dwijadas Chakraborty, learned counsel appearing for the railways, at the outset has placed a communication dated **July 28, 2025** address to the petitioner by the railways wherefrom it appears that the said representation/appeal of the petitioner has been considered and the request of the petitioner was regretted. The petitioner was requested to unload the consignment from the subject VPs at the earliest by paying all applicable

commercial dues a copy of the said communication dated **July 28, 2025**, is taken on record.

10. Learned counsel Mr. Saptarshi Roy appearing for the petitioner has denied this contention of the railways and submits that the said communication dated **July 28, 2025** was never served upon the petitioner.
11. In the light of the above, the petitioner prays for weighment of the consignment in terms of the provisions laid down under **Section 79** of the **Railways Act, 1989**. The petitioner submits that it is agreeable to deposit the demanded sum, as mentioned above, along with all applicable commercial charges in accordance with law and upon such deposit being made the consignment may be weighed following the procedure under **Section 79** of the **Railways Act** and then same may be released forthwith in favour of the petitioner. Thereafter, the claims and cross-claims of the parties can be decided between themselves in accordance with law.
12. After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this court that, **Section 79** of the **Railways Act** provides for a right in favour of the consignee for weighment of consignment on its request. The records available before this Court and from the submissions made on behalf of the parties, it appears to this court that in terms of the appeal of the petitioner dated **July 26, 2025**, the railway authority has merely communicated its regret thereto for not considering the same.

13. Nothing on record shows neither from the submissions of the parties, it appears that the provisions under **Section 79** of the railways has been complied with.
14. In view of the above, the petitioner shall forthwith deposit the said sum of **52,000/-** as demanded by the railways along with all applicable commercial dues in accordance with law in connection with the subject consignment before the railway authority.
15. In the event, the entire sum is deposited by the petitioner, as directed above, the railway authorities shall cause the weighment of the subject consignment in strict compliance of the provisions laid down under **Section 79** of the **Railways Act** positively **within seventy two hours** from the deposit to be made by the petitioner.
16. After the weighment is over in terms of **Section 79** of the **Railways Act**, the railway shall release the consignment in favour of the petitioner without any further embargo but in accordance with law and the petitioner shall lift the consignment out of the custody of the railways positively **within 24 hours** immediately from the release of the consignment.
17. Both the petitioner and the railways thereafter shall be liberty to proceed to exert their respective claims and cross-claims, if any, against each other in accordance with law.
18. In view of the above, nothing further survives in this writ petition.
19. Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

20. With the above observations and directions, this writ petition, **WPA 17681 of 2025** stands ***disposed of***, without any order as to costs.
21. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)