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

% **Judgment reserved on : 07 February 2025**

Judgment pronounced on : 03 March 2025

\+ CONT.CAS(C) 838/2012

NAGALAND STATE COOPERATIVE MARKETING AND CONSUMERS FEDERATION LTD. ....Petitioner

Through: Mr. Manoj Sharma and Mr. Kapil Kaushik, Advs.

versus

V.K.GUPTA & ORS .....Respondents

Through: Mr. Mukul Singh, CGSC with Ms. Ira Singh, Adv.

\+ CONT.CAS(C) 840/2012

FOREST DEVELOPMENT CORPORATION OF MAHARASTRA LTD. .....Petitioner

Through: Mr. Manoj Sharma and Mr. Kapil Kaushik, Advs.

versus

V.K. GUPTA & ORS .....Respondents

Through: Mr. Mukul Singh, CGSC with Ms. Ira Singh, Adv.

\+ CONT.CAS(C) 842/2012

GUJRAT STATE FOREST DEVELOPMENT CORPORATION LTD. .....Petitioner

Through: Mr. Manoj Sharma and Mr. Kapil Kaushik, Advs.

versus

V.K.GUPTA & ORS .....Respondents

Through: Mr. Mukul Singh, CGSC with Ms. Ira Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

JUDGEMENT

1. The present petitions have been filed by the petitioners herein, seeking initiation of contempt proceedings under Sections 11 and 12 of the Contempt of Courts Act, 1971 against the respondents/Ministry of Railway, for the alleged wilful disobedience of the directions passed by this Court *vide* judgment dated 08.08.2011 in LPA No. 466 of 2011, whereby this court directed the petitioners to make a representation with respect to the amount due and payable by the Respondent in terms of the Common Order dated 08.03.2011 passed in Review Petition No. 203/2010 in Writ Petition No. 185/1999 along with connected W.P No's 2815/1999 and 4497/2000.

2. The aforesaid contempt petitions raise common questions of law and facts except for the quantity of supplies as well as the amount payable thereupon, and thus, the contempt petitions can be disposed of conveniently by this common order.

BRIEF FACTS

3. The brief facts leading to filing of the present petitions are that the petitioners are 100% State owned corporations of the State Governments of Nagaland, Maharashtra & Gujarat respectively, and therefore, are Public Sector Undertakings for the purpose of forest development. The respondent/contemnor No.1 is the Secretary, Ministry of Railway, Government of India, and the respondent/contemnor No.2 is the Chairman of the Railway Board, whereas the Respondent/Contemnor No.3 is Director Track (M). of the Railway Board.

4. Shorn of unnecessary details, in terms of the Work Order issued by the respondents/Railway Board with regard to supply of sal wood sleepers of requisite quantities, each of the petitioners along with other similarly placed suppliers, was entitled to payment based on the 23rd Sleeper Pricing Sub-Committee[1] formulated for the year 1991-1992.

5. As per the work orders issued in April, 1993 to each of the petitioners, the entire supply was required to be completed by 31.10.1993 but by the time the final work orders were placed, almost half of the sleeper year reckoned from 01.11.1993 to 31.01.1994 of the following year had expired and period of supplies were extended till 31.03.1994. Anyhow, it was the case of the petitioners that despite offering Sal Wood Sleepers for inspection before supply, certain quantities could not be inspected by the respondents/Railways by 31.03.1994. Consequently, a joint decision was taken that for the quantities which could not be inspected by the respondents/Railways but wherein release orders were issued prior to 01.11.1993 or thereafter, the suppliers shall be compensated.

6. There was an interesting twist to the story when the Ministry of Environment and Forests[2], *vide* its letter dated 05.10.1995, recommended that the payment for such uninspected supplies for which release orders were issued after 01.11.1993 shall be made as per the 24th SPC, by which enhanced payment @ 30% over the 23rd SPC was provided. It is pertinent to note that the respondents, on the basis of the said recommendation, prepared a detailed chart reflecting the

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1 SPC

2 MoEF

status of supply by various suppliers, including Minerals and Material Trading Corporations[3] and Madhya Pradesh Export Corporation Limited[4].

7. At this stage, it would be apposite to reproduce the recommendation of the MoEF contained in the said letter dated 05.10.1995 which reads as under:

> "The request from MMTC MPEX was examined and it was found that the quantity of 7333 cub. Mtr of Wooden Sleeper which were offered for inspection by MMTC/MPEX in the year 1993 has not yet been inspected whereas 5450 cub, mtr which has offered for inspection on 7.12.93 was inspected during the period Feb,95 to August,95 inspite of several requests by the supplier to the Railways for expediting the inspection. As the total quantity of 12783 cub, mtr of Wooden Sleeper could not be inspected by the railways within two months of the offer for inspection, it is recommended that the payment for 12783 cub, mtr Wooden Sleeper at the rate decided by the 24th Sleeper Pricing Sub-Committee be made applicable in favour of MMTC.MPEX"

8. The case of the petitioners is that although the petitioners were identically placed as the aforementioned supplier, the benefit of the enhanced rates have not been extended to them. Aggrieved by such discriminatory treatment, the petitioners preferred representations to the respondents/Railways as well as the MoEF, seeking parity with MMTC/MPEX. Subsequently, the MoEF, in its recommendation dated 16.11.1998, reiterated the petitioners' entitlement to the enhanced rates of the 24th SPC. However, despite the recommendation by the MoEF, the petitioners, though equally and identically placed with the MMTC/MPEX, were not being paid the price of 24th SPC for the quantity which was offered for inspection but could not be

[3] MMTC
[4] MPEX

inspected by the respondent/Railways by 31.03.1994.

9. It is stated that upon continued non-compliance by the respondents, the petitioners were constrained to file a writ petition bearing WP(C) No. 185 of 1999, along with connected writ petitions bearing WP(C) Nos. 2815 of 1999 and 4497 of 2000, before this Court, seeking parity in payment with MMTC and MPEX. This Court, *vide* its common judgment dated 15.04.2010, allowed the aforementioned writ petitions but inadvertently omitted the direction for payment of interest. Consequently, the petitioners, along with other similarly placed petitioners, filed Review Petition Nos. 203/2010, 202/2010 and 200/2010 before a learned Single Judge of this Court.

10. In the interregnum, the respondent/Railway filed a Letters Patent Appeal bearing LPA No. 466 of 2011 before the Division Bench of this Court, challenging the judgment dated 15.04.2010. However, the LPA consequently became infructuous upon the passing of the final order in the Review Petitions dated 08.03.2011 by the learned Single Judge, which order stood modified *vide* order dated 15.04.2010.

11. At the cost of repetition, the Single Judge, *vide* judgment dated 08.03.2011, allowed the aforementioned review petitions, thereby modifying the judgment dated 15.04.2010 besides directing the respondents to make payments for the uninspected quantity as per the 24th SPC rates, along with interest at 6% per annum from the date of filing of the writ petitions till realization, within four weeks of receiving the certified copy of the judgment.

12. However, despite the directions of this Court, the respondent No. 3, *vide* letters dated 04.04.2011 and 06.04.2011, sought to unilaterally alter the payment criteria by restricting the benefit to supplies for which release orders were issued after 01.11.1993, thereby overreaching this Court's order. Again, the respondent filed LPA No. 466 of 2011 against the judgment dated 08.03.2011. However, the Division Bench, *vide* its judgment dated 08.08.2011, upheld the order of the Single Judge, affirming that the petitioner must be treated at par with MMTC/MPEX and directed the respondents to compute and release the payable amount, including interest, within three months.

13. The petitioner sought information from the respondents/Railway Board under the Right to Information Act[5], *vide* letter dated 18.05.2011, regarding the financial implications of compliance with the Court's order. However, the respondents/Railway Board, *vide* letter dated 01.07.2011, declined to furnish the requisite documents. The petitioner subsequently filed an appeal under Section 19 of the RTI Act, which was rejected by the Appellate Authority, prompting further appeal before the Central Information Commission[6].

14. While the appeal before the CIC was pending, the South Eastern Railway, *vide* letter dated 01.08.2011, disclosed information confirming that the Railway Board had made budgetary provisions for the differential payments to the petitioner and similarly placed

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[5] RTI
[6] CIC

suppliers since 2003. The financial implications were computed as follows:

A. Maharashtra Corporation	Rs. 3.18 Crores
B. Nagaland Corporation	Rs. 3.42 Crores
C. Gujarat Corporation	Rs. 2.55 Crores
Total	**Rs. 9.15 Crores**

15. Finally, aggrieved by the inactions of the respondents/Railway Board, the petitioner filed the present petitions within the prescribed period of limitation.

LEGAL SUBMISSIONS ADVANCED AT THE BAR

16. Learned counsel for respondent No. 3 has urged that the petitioner in CC(C) 838/2012 i.e., Nagaland State Cooperative Marketing & Consumers Federations, has been paid a sum of Rs. 1,22,75,118/-; whereas the petitioner in CC(C) 840/2012 i.e., Forest Development Corporation of Maharashtra Ltd was paid a sum of Rs.1,35,43,810/- towards the cost of the purchase of sleepers including interest @ 6% as per the impugned judgment. It is submitted that as far as the petitioner in CC(C) 842/2012 i.e., Gujrat State Forest Development Corporation Ltd. is concerned, nothing has been paid to them since the said corporation has not filed the complete documents made available to them. The respondent No. 3 further stated that in case of MMTC, the 24th SPC rates were applied strictly to only those release orders which were issued by Railway Board after 01.11.1993. It was urged that for release orders issued before 01.11.1993, 23rd SPC rates were applied when the actual supplies against such release orders were made after 01.11.1993.

17. In rejoinder, it was stated by the learned counsel for the petitioners that the respondents/contemnors at this stage, cannot turn around and bring any new plea, in view of the fact that all the issues raised by the respondents/contemnors with respect to payment to the petitioners as per their entitlement, have finally been put to rest *vide* order dated 15.04.2010 in W.P. (C) 2815/1999. It was further urged that the Single Judge *vide* review order dated 08.03.2011 has clarified the further period of calculation of the amount payable and awarded the interest thereupon to the petitioner. In view of the aforesaid, it was contended that the respondents/contemnors are attempting to mislead this Court by placing wrong facts and giving wrong interpretations to orders and judgments passed by this Court.

18. Lastly, it was urged that the respondents/contemnors have paid the amount on the quantity for which release orders were issued after 01.11.1993 as per the general policy, however, the respondent/contemnors have not complied with the specific direction given by the Single Judge and the Division Bench for the payment of 24th SPC on the quantities for which though the Release Orders were issued prior to 01.11.1993 but which quantity could not be inspected by the respondents/Railways upto 31.03.1994.

ANALYSIS & DECISION:

19. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have also perused the relevant record of the case.

20. At the outset, undoubtedly in terms of the resolution passed in the meeting held on 08.11.1993 by the 24th SPC, a 30% enhancement

over the rates of 23rd SPC were recommended for supply of sal wood sleepers for which release orders were issued after 01.11.1993. However, it is also manifest that certain representations were made by MMTC and MPEX to apply the rates recommended by the 24th SPC with relation to the supplies that were kept ready but either the release orders were not issued in time or deliveries were not taken because the Railways failed to inspect the quantities within two months of the issuance of the release orders.

21. It is borne from the record that on finding that there was no fault on the part of the suppliers with respect to the belated deliveries, the said representations were accepted, thereby making applicable the recommendations of 24th SPC to the release orders even passed prior to 01.11.1993 and supplies effected till 31.03.1994. The said position is exemplified on reading of paragraph (3.6) of the initial judgment dated 15.04.2010 of this Court, wherein it was espoused by the Railways that although there was a general policy applicable on supplies made after 31.01.1994, at the same time it was resolved that enhanced rates as recommended by 24th SPC would be paid for the period prior thereto as well for the blemishes on the part of the respondent/Railways. In other words, since differential rates were found to be discriminatory *vis-à-vis* MPEX, it was later clarified by advancing the cut-off date for supplies made in the case of MPEX prior to 01.11.1993 as well.

22. It was in the teeth of the aforesaid disposition that the learned Single Judge in the Judgment/order dated 15.04.2010 in the three writ petitions referred hereinabove, observed that when MMTC and MPEX

had been accorded benefits in relation to release orders passed prior to 01.11.1993 irrespective of the fact that whether the release order was issued prior to such date or thereafter, the rates recommended by the 24th SPC were made applicable including the factor of supplies not inspected by the respondent/Railways upto 31.03.1994. This position was exemplified by the learned Single Judge in the review filed by the petitioners, which was decided *vide* order dated 08.03.2011, wherein the following observations were made:

> "**6.** The chart prepared by the Railways themselves (copy at page 160 of the paper book in W.P.(C) No. 2815/1999) indicates the total quantities which have been offered by the suppliers, including these Petitioners, to the Railways for inspection up to 31st March 1994. As regards MMTC/MPEC, 12429 cu.m. of *sal* wood sleepers was the balance quantity which remained to be passed by the Railways out of the total quantity offered for inspection up to 31st March 1994. **In respect of the said balance quantity an order was passed on 5th October 1995 by the MOEF recommending that even for the said quantity the rates decided by the 24th SPC would apply.** This document is at pages 141-142 of the paper book in W.P.(C) 2815 of 1999. **Although the payment was made to the MMTC on the basis of the above recommendation in 1995 itself, the Petitioners were not extended the same benefit. This led them to make a representation on 29th July 1995 followed by a legal notice dated 7th July 1998. Although the MOEF made a similar recommendation as regards the Forest Development Corporation Maharashtra Ltd. ('FDCML') on 16th November 1998 it was not implemented by the Railways.** As regards the other two Petitioners no such recommendation was made. As a result, the three Petitioners approached this Court.
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> **7. Although in the judgment dated 15th April 2020 this Court accepted the Petitioners' contentions, it did not advert to that part of the prayer of the Petitioners that even the quantity offered for inspection but not inspected and passed the Railways, should be paid at the rates recommended by the 24th SPC. This obviously was an inadvertent error, which requires to be corrected.**
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> **8.** Mr. R.V. Sinha, learned counsel appearing for the Respondents relies upon the judgment in ***Inderchand Jain (Dead)***

Through LRs v. Moti Lal (Dead) Through LRs (2009) 14 SCC 663 to urge that no ground is made out for review of the order dated 15th April 2010. However, for the reasons explained, this Court considers it appropriate to recall the order dated 15th April 2010 to the above extent.

9. Accordingly, it is directed that for the supply of sleepers offered to the Railways for inspection by each of the Petitioners upto 31st March 1994, and in respect of the quantities which were not inspected and passed for payment by the Railways up to 31st January 1994, payment has to be made to each of the Petitioners by the Railways at the rates recommended by the 24th SPC.

10. There was also a prayer made by the Petitioners in the writ petition that the above sums should be directed to be paid with interest @ 24% per annum. This was also overlooked by this Court. Mr. Sinha opposes this prayer and points out that no such interest was paid to the MMTC. The difference is that while the MMTC was paid the sums due to it in the year 1995 itself, the Petitioners had to wait till 2010 to be granted similar relief. In the circumstances, it is directed that the Petitioners will each be paid the above sums within a period of four weeks from the date of receipt by the Railways of a certified copy of this order together with simple interest @ 6% per annum from the respective date of filing of the writ petition till the date of payment.

11. The review petitions are accordingly disposed of."

{Bold portions emphasized}

23. The said directions eventually came to be approved in the LPA No. 470/2011 wherein the Division Bench of this Court made the following observations:

"**Learned counsel for the appellant fairly stated that whatever benefits have been extended to MMTC and MPEC the respondent has been extended the said benefit and if any extra benefits have been given to the MMTC and MPEC, the same shall be extended to the respondent**.

We will be failing in our duty, if we do not note a submission of the learned counsel for the respondent that MMTC and MPEC have been paid extra sum on the basis of the recommendations made by the MOEF and the respondents have also been endowed the benefit of similar recommendation and **if Railway administration has accepted one set of recommendation and made the payment, it is bound to follow the concept of parity.**

Needless to emphasis the said concept of parity shall be adhered to by the appellant. Benefits extended to MMTC and MPEC will be extended to the respondents. Accordingly, it is directed that the computation shall be carried out within a period of three months and be paid. The rate of interest as directed by the learned Single Judge shall remain in vogue" **{Bold portions emphasized}**

24. During the course of proceedings, a tabular depiction was filed on behalf of the petitioners so as to show the supplies made by the various agencies, which is reproduced hereinunder:

S. No.	Name of Supplying Agencies	Total Qty. Allotted by MOEF	Total Qty. for which ROs have been supplying agencies	Qty. for which ROs placed upto 31.03.94 — Total	Qty. not offered by the suppliers for passing upto 31.03.94	Qty. offered by the Suppliers for passing upto 31.03.94 — Total	Qty. passed	Balance Quantity (not yet passed)	Qty. for which ROs placed after 31.03.94	Remarks
		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
(1)	(2)	(3)	(4)	(5)	(6)	(5-6=7)	(8)	(7-8=9)	(4-5=10)	(11)
1	MAHACOTTON Nagaland	40000	33000	29550	5133	24455	22357	2133	3408	
2	Orissa	5000	5000	4877	4877	Nil	Nil	Nil	623	Totally failed to supply. Allotment cancelled by MOEF
3	Bihar	15000	13000	13000	Nil	13000	12409	591	Nil	Extension of supply period requested without asking for new rates.
4	MPSSVVK	10000	10000	10000	Nil	10000	7550	2450	Nil	-do-
5	APSTCL	25000	25000	25000	40	24960	24960	Nil	Nil	-do-
6	GSIDC	15000	15000	11472	3254	8218	7871	347	3528	
7	MMTC/MPEC	50000	35000	35440	379	35265	22536	12430	560	
8	HDCML	27000	27000	16995	1549	15444	8381	7063	10005	
9	KSTIC	5000	5000	5000	61	4939	3716	1223	Nil	Extension of supply period requested without asking for new rates.
10.	Assam	500	500	500	500	Nil	Nil	Nil	Nil	
11.	Meghalaya	500	500	500	500	Nil	Nil	Nil	Nil	
	TOTAL	169000	158500	151871	15650	136248	112026	24224	17053	

25. The aforesaid chart is not disputed by the respondents. The position of the supplies effected by the petitioners i.e., Nagaland Corporation, Maharashtra Corporation and Gujarat Corporation respectively are indicated *vide* Serial No. 1, 6 and 7, that would go on to suggest *vide* column no. (5), (6) & (7) the supplies were made but not inspected till 31.03.1994. Thus, in view of the benefits accorded to MMTC & MPEC for supplies not inspected till such date and even supplies effected after such date i.e., 31.03.1994, irrespective of release orders issued prior to 01.11.1993 or thereafter, on grounds

of parity payment, have to be made to the petitioners in terms of recommendations of 24th SPC.

26. In view of the foregoing discussion, the stand of the respondents that recommendations of 24th SPC were not appliable to release orders issued up to 01.11.1993 cannot be accepted. The payment by the Respondents, as claimed, is not in full compliance with the Court’s order, since it does not include the quantities for which release orders were issued before 01.11.1993 but remained uninspected. The Respondents’ unilateral modification of the scope of payment amounts to an attempt to dilute and frustrate the implementation of the Court's judgment.

27. At the cost of repetition, evidently MMTC and MPEX were given the benefit of the 24th SPC rates for their entire uninspected quantity, irrespective of the date of the release orders. This Court had already established that the petitioners were similarly placed and entitled to identical treatment. The refusal of the respondents to grant the petitioners the same benefits, despite a judicial determination affirming such entitlement, constitutes deliberate non-compliance.

28. At this juncture, it may be pointed out that the South Eastern Railway’s disclosure under the RTI Act revealed that budgetary provisions for the payment of differential amounts have been made since 2003. This directly contradicts the Respondents’ contention that financial constraints or policy considerations prevented compliance. The deliberate withholding of this information from the petitioner further indicates bad faith on the part of the respondents.

FINAL DIRECTIONS

27. Unhesitatingly, the respondents have flouted the repeated directions of this Court. Hence, the respondents are held guilty of committing contempt of the directions of this Court dated 15.04.2010 as modified *vide* order dated 08.03.2011 by the learned Single Judge and upheld by the Division Bench in LPA No. 470/2010 *vide* order dated 08.08.2011.

28. In order to enable the respondents to purge themselves of this contempt, they are directed to make a fresh computation for the payment of the supplies in accordance with the recommendations of 24th SPC with regard to release orders which were issued prior to 01.11.1993 or thereafter but supplies of which were effected up to 31.03.1994 which could not be inspected, within a period of six weeks from today besides working out simple interest @ 6% per annum from the date of filing of the respective writ petitions till the date of payment. The said payments be made to the petitioners within such period of six weeks, failing which the respondents shall appear before this Court through video conferencing at 11.30 a.m. on 21.04.2025 and show as to why they should not be punished and sentenced in accordance with law.

29. The present contempt petitions stand disposed of accordingly.

DHARMESH SHARMA, J.

MARCH 03, 2025

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Signature Not Verified
Digitally Signed By:PRAMOD KUMAR VATS
Signing Date:03.03.2025 20:39:14