7.4.2026
Item no. 3
Court no. 10
AGM

WPA 8408 of 2026

Shri Pradip Kumar Gupta
Vs.
Union of India & Ors.

Mr. Saptarshi Roy.
Ms. Kakali Das Chakraborty.
...... For the Petitioner
Mr. Samajit Kumar Ghosh
Mr. Pradip Kumar Kundu
....For the Respondents

1. Affidavit of service filed in Court is taken on record.

2. Main grievance of the petitioner is with regard to the termination of an existing operator through the invitation of a new tender.

3. It is contended that the termination is arbitrary, stemming solely from the conversion of IFC rake model to new LBH rakes.

4. At the very outset learned counsel appearing for the Railway Authorities submits that the instant writ petition is not maintainable. In contractual matters the court cannot exercise such a discretion in a writ jurisdiction.

5. In this context learned counsel appearing for the Railway Authorities relies upon a judgement reported in ***(2015) 7 SCC 728 (Joshi Technologies International Inc. Vs. Union of India & Ors.).*** Paragraphs 69 to 69.2 are reproduced below:

*"**69.** The position thus summarized in the aforesaid principles has to be understood in the context of discussion that preceded which we have pointed out above. As per this, no doubt, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised. At the same time, discretion lies with the High Court which under certain circumstances, can refuse to exercise. It also follows that under the following circumstances, 'normally', the Court would not exercise such a discretion:*

***69.1.** the Court may not examine the issue unless the action has some public law character attached to it.*
***69.2.** Whenever a particular mode of settlement of dispute is provided in the contract, the High Court would refuse to exercise its discretion under Article 226 of the Constitution and relegate the party to the said made of settlement, particularly when settlement of disputes is to be resorted to through the means of arbitration."*

6. He further draws the attention of this court to paragraph 70 onwards of this judgement to demonstrate that writ petition is not maintainable relating to contracts entered into by the State/Public Authority with private parties which are reproduced below:

***"70.** Further legal position which emerges from various judgments of this Court dealing with different situations/aspects relating to the contracts entered into by the State/public Authority with private parties, can be summarized as under:*
***70.1.** At the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness.*

70.2. *State in its executive capacity, even in the contractual field, is under obligation to act fairly and cannot practice some discriminations.*

70.3. *Even in cases where question is of choice or consideration of competing claims before entering into the field of contract, facts have to be investigated and found before the question of a violation of Article 14 could arise. If those facts are disputed and require assessment of evidence the correctness of which can only be tested satisfactorily by taking detailed evidence, Involving examination and cross- examination of witnesses, the case could not be conveniently or satisfactorily decided in proceedings under Article 226 of the Constitution. In such cases court can direct the aggrieved party to resort to alternate remedy of civil suit etc.*

70.4. *Writ jurisdiction of High Court under Article 226 was not intended to facilitate avoidance of obligation voluntarily incurred.*

70.5. *Writ petition was not maintainable to avoid contractual obligation. Occurrence of commercial difficulty, inconvenience or hardship in performance of the conditions agreed to in the contract can provide no justification in not complying with the terms of contract which the parties had accepted with open eyes. It cannot ever be that a licensee can work out the license if he finds it profitable to do so: and he can challenge the conditions under which he agreed to take the license, if he finds it commercially inexpedient to conduct his business.*

70.6. *Ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed. Otherwise, the party may sue for damages.*

70.7. *Writ can be issued where there is executive action unsupported by law or even in respect of a corporation there is denial of equality before law or equal protection of law or if can be shown that action of the public authorities was without giving any hearing* *and violation of principles of natural justice after holding that action could not have been taken without observing principles of natural justice.*

70.8. *If the contract between private party and the State/instrumentality and/or agency of State is under the realm of a private law and there is no element of public law, the normal course for the aggrieved party, is to invoke the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitutional of India and invoking its extraordinary jurisdiction.*

70.9. *The distinction between public law and private law element in the contract with State is getting blurred. However, it has not been totally obliterated and where the matter falls purely in private field of contract. This Court has maintained the position that writ petition is not maintainable. Dichotomy between public law and private law, rights and remedies would depend on the factual matrix of each case and the distinction between public law remedies and private law, field cannot be demarcated with precision. In fact, each case has to be examined, on its facts whether the contractual relations between the parties bear insignia of public element. Once on the facts of a particular case it is found that nature of the activity or controversy involves public law element, then the matter can be examined by the High Court in writ petitions under Article 226 of the Constitution of India to see whether action of the State and/or instrumentality or agency of the State is fair, just and equitable or that relevant factors are taken into consideration and irrelevant factors have not gone into the decision making process or that the decision is not arbitrary.*

70.10. *Mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirements of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness.*

> ***70.11.*** *The scope of judicial review in respect of disputes falling within the domain of contractual obligations may be more limited and in doubtful cases the parties may be relegated to adjudication of their rights by resort to remedies provided for adjudication of purely contractual disputes."*

7. In this context the petitioner places reliance upon a judgment reported in ***(2021) 16 SCC 35 (Unitech Limited & Ors. Vs. Telangana State Industrial Infrastructure Corporation & Ors.).*** The petitioner draws the attention to paragraph 38 of this judgement with regard to the maintainability of the writ petition under Article 226 of the Constitution of India and submits that as it has been held in case of ABL International Ltd. Vs. Export Credit Guarantee Corporation of India Ltd. (2004) 3 SCC 553, the plenary power under Article 226 of the Constitution of India must be used with circumspection when other remedies have been provided by the contract. But as a statement of principle, the jurisdiction under Article 226 of the Constitution of India is not excluded in contractual matters.

8. Since the issue involved herein is maintainable in view of the cases relied upon, the matter is taken up for consideration on merits.

9. The petitioner in the instant case is engaged in the business of transportation of goods through the Railways. An agreement has been executed between the petitioner and the Railway Administration for leasing 4 tonnes parcel space in the 2nd compartment of the Front Brake Van (SLR) of Train No. 13507 Asansol to Gorakhpur effective from 20.2.2026 for a period of three years, ending on 1.3.2029. Subsequent thereto, the petitioner has been informed by the Railways by a letter dated 9.3.2026 that the ICF rakes have been converted to LHB rakes w.e.f. 20.02.2026 in terms of HQ/ER Letter No. C. 375/Parcel Policy/FM/25/dated 20.02.2025. In light of such conversion the Railway Authorities decided to terminate the operation of the front SLR (2) of the new LBH rake to the petitioner being the highest rate lease-holder, On 9.3.2026 the respondent no.4 by issuing an order of termination by quashing the letter of allotment and terminating the existing contract of Front SLR (2) lease contract in train no. 13507-SLR-F-2- ASN to GKP due to conversion of ICF rake into LBH.

10. It is submitted by the Railways Authorities that due to the conversion of the ICF rakes to LHB rakes, the leasehold compartments have been reduced from 3 to 2. Prior to conversion there has been two FSLR, namely, FSLR- I and FSLR-II and there were also two RSLR, namely, RSLR-I and RSLR-II. After conversion of the rakes 2 FSLR has been reduced to IFSLR and 2 RSLR reduced to 1 RSLR. It is further submitted that due to such conversion of the rakes and reduction hence in the number of coaches the railway authority have terminated the existing operators contract.

11. Learned counsel relied upon an order passed by this Court dated 12.02.2026 in WPA 2028 of 2026. Wherein the main notification dated 20.02.2025 has been stayed till the end of March, 2026 or until further order, whichever is earlier.

12. In compliance with interim order in a separate matter the railway authority have resolved to terminate the existing operator by initiating a new tender process.

Category of Auction	e-Auction Catalogue No.	Date of Auction start	Sl. No.	Train No. & SLR
Leasing of Parcel Space (SLR)	ASN-PARC-100426	10.4.2026, 12:00 Hrs.	1. 2. 3.	17322 (JSME-VSG) FSLR-1 13509 (ASN-GD) FSLR-1 13507 (ASN-GKP) FSLR-1

13. In conspectus of the above as adumbrated herein, I find that there is a serious element of arbitrariness and unreasonableness in the stand taken to terminate an existing operator by floating a new tender due to policy decision of converting IFC rakes into new LBH rakes, particularly when an earlier order states the policy in a different matter in respect of the new LHB rakes.

14. After hearing the parties at length and upon perusing the materials available on record, I find that this court is prima facie satisfied and an interference is warranted at this stage. Since the petitioner is an existing operator and has been terminated only on the basis of an order dated 12.02.2026 passed in WPA 2028 of 2026, the earlier letter of allotment has been quashed by terminating the existing contract of F2 in Train No. 13507 ASN-GKP w.e.f. 9.3.2026. Prejudcing rights and interest of the petitioner, the doctrine of the promissory estopple comes into play.

15. It is well settled proposition of law as held by the Apex Court in the case of **Kaniska Trading vs Union of India on 18 October, 1994** which is reproduced below:

> *"11. The doctrine of promissory estoppel or equitable estoppel is well established in the administrative law of the country. To put it simply, the doctrine represents a principle evolved by equity to avoid injustice. The basis of the doctrine is that where any party has by his word or conduct made to the other party an unequivocal promise or representation by word or conduct, which is intended to create legal relations or effect a legal relationship to arise in the future, knowing as well as intending that the representation, assurance or the promise would be acted upon by the other party to whom it has been made and has in fact been so acted upon by the other party, the promise, assurance or representation should be binding on the party making it and that party should not be permitted to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings, which have taken place or are intended to take place between the parties.*
>
> *12. It has been settled by this Court that the doctrine of promissory estoppel is applicable against the Government also particularly where it is necessary to prevent fraud or manifest injustice. The doctrine, however, cannot be pressed into aid to compel the Government or the public authority "to carry out a representation or promise which is contrary to law or which was outside the authority or power of the officer of the Government or of the public authority to make". There is preponderance of judicial opinion that to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself by the party invoking the doctrine and that bald expressions, without any supporting material, to the*

> *effect that the doctrine is attracted because the party invoking the doctrine has altered its position relying on the assurance of the Government would not be sufficient to press into aid the doctrine. In our opinion, the doctrine of promissory estoppel cannot be invoked in the abstract and the courts are bound to consider all aspects including the results sought to be achieved and the public good at large, because while considering the applicability of the doctrine, the courts have to do equity and the fundamental principles of equity must for ever be present to the mind of the court, while considering the applicability of the doctrine. The doctrine must yield when the equity so demands if it can be shown having regard to the facts and circumstances of the case that it would be inequitable to hold the Government or the public authority to its promise, assurance or representation."*

16. The decision taken by the Railway Authorities to terminate the petitioner contract is highly arbitrary and unreasonable. The authority acted in a very unfair manner by terminating the contract of the petitioner being an existing operator whose contract sets to expire on 1.3.2029.

17. The Railway Authorities are at liberty to continue with the tender process but are restrained from giving effect to it so long as the agreement remains in force.

18. However, it is made clear that the interim order passed in WPA 2028 of 2026 will not be a bar to the Railway Authorities for taking any decision with regard to the FSLR as the matter under reference pertains to RSLR.

19. The Railway Authorities are directed to allow the highest bidder as per the existing agreement to operate the contract No. 13507-SLR-F-2- ASN-GKP untill the date of expiry of their term. The said order shall not create any precedent for others.

20. Since no affidavit has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

21. The writ petition being **WPA 8408 of 2026** stands **disposed of**.

(Smita Das De, J.)