

21st March,
2024
(AK)
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W.P.A 4200 of 2024

Scavengers Organization
Vs.
Union of India and others

Mr. Saptarshi Chakraborty
...for the petitioner.

Mr. Amitabha Nayak
...for respondents.

1. The petitioner has challenged the arbitrary and astronomical enhancement of the licence fees for operation of a pay and use toilet by the petitioner.
2. It is argued that a licence was given to the petitioner to run the said pay and use toilet complex.
3. By placing reliance on page-35 of the writ petition, learned counsel for the petitioner argues that the last payment for the six months from 10.12.2019 to 09.06.2020 was at the rate of Rs.4,680/-.
4. However, by the impugned notice dated November 28, 2023, an astronomical figure of Rs.4,13,591/- has been claimed for the period from 10.06.2020 to 09.12.2020 and for the next period of six months and thereafter the same has been showed at a further enhanced rate compared to the amount claimed for 10.06.2020 to 09.12.2020.

5. It is argued that such astronomical enhancement is *de hors* the terms of the licence agreement as well as all norms of natural justice.
6. Learned counsel for the Railway Authorities submits that the amount was decided by way of floating a tender in which the petitioner came out as the highest bidder.
7. However, learned counsel for the petitioner submits that the petitioner is not aware of such bid.
8. In such view of the matter, a strong *prima facie* case has been made out by the petitioner which requires the writ petition to be heard on merits, on the question as to whether the enhancement impugned herein vide communication dated November 28, 2023, as a pre-condition of granting of a fresh renewal of lease to the petitioner, is astronomical, arbitrary and unreasonable.
9. In the meantime, it is submitted that the Railway authorities have put a lock on the pay and use toilet complex, thereby preventing the petitioner from running the same.
10. Although the Railway Authorities submit that in any event the previous agreement with the petitioner has expired, it is seen from the averments and the submissions of parties that even after expiry of the licence in the year 2015, the Railway Authorities permitted the petitioner to run

the establishment for at least four years, after which the negotiations started.

11. In view of such admitted position, the Railway Authorities cannot suddenly oust the petitioner from the said complex, which was constructed by the petitioner with the permission of the Railway authorities, without due process of law.
12. Accordingly, the Railway Authorities shall remove the lock, if any put on the toilet complex-in-question, within a week from date and permit the petitioner to run the same, subject to the outcome of the writ petition insofar as the rate of licence fees is concerned.
13. The respondents shall file their affidavits-in-opposition within three weeks from date. Reply, if any, shall be filed within a week thereafter.
14. The matter shall be listed on April 22, 2024 for hearing.
15. The interim order granted above shall continue till the disposal of the writ petition.

(Sabyasachi Bhattacharyya, J.)