

**IN THE HIGH COURT AT CALCUTTA
(CONSTITUTIONAL WRIT JURISDICTION)**

APPELLATE SIDE

Present :

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 8641 of 2024

Mohammed Sabir

Vs.

Union of India & Ors.

For the petitioner : Mr. Milan Chandra Bhattacharjee, Ld. Sr. Adv,
Ms. Sulagna Bhattacharya.

For the UOI : Mr. Soumik Nandi, Ld. Sr. Adv.,
Mr. Pradyut Saha.

Heard on : 20.05.2025

Judgment on : 24.06.2025

Partha Sarathi Chatterjee, J.:-

Preface:

1. The present writ petition challenges the legality of the order of termination dated 06.06.2023 issued by the Railway Authority, which pertains to the contract entered into with the petitioner. The petition also questions the consequent forfeiture of the security deposit, the issuance of a

new work order dated 22.06.2023, and the publication of a fresh e-auction notice dated 18.08.2023 inviting quotations from interested traders. Additionally, the petitioner seeks a direction upon the respondents to allow the petitioner to continue and complete the remaining scheduled trips under the terms and conditions of the original contract relating to the parcel service on Train No. 12311 Netaji Express (Ex-HWH to KLK, SLR).

Petitioner's Case:

2. Sans unnecessary details, the necessitous facts, as unfurled in the writ petition, that need to be adumbrated are as follows:

- i) An e-auction was floated by the Eastern Railway authorities, Howrah Division, on 06.06.2023 for the allotment of parcel space in SLR-F1 of Train No. 12311, Netaji Express (Ex-Howrah to Kalka), at the rate of Rs. 42,300/- per 4 MT for 7 days a week, for a period of two years commencing from 22nd June 2023 to 21st June 2025, covering a total of 731 trips.
- ii) The petitioner, having recently ventured into the field of railway-based trading and having emerged as the successful bidder, was allotted the parcel space, and a formal contract was executed on the same date. The lease was governed by both the Special Conditions and the Standard Conditions of Contract, as stipulated in the bid documents.
- iii) On 11.08.2023, during a scheduled trip en route to Kalka, which was the 52nd of 731 scheduled trips, the Railway authorities allegedly detected an overweight consignment measuring 4,344 kg, purportedly identified at Deen Dayal

Upadhyaya Railway Station amid heavy rainfall. The goods, comprising garments and flowers, which were perishable in nature, were unloaded and weighed. The petitioner's representative promptly visited the station on 12.08.2023 and deposited the penalty amount.

- iv) However, on 17.08.2023, the petitioner was served with an order indicating that, for the alleged overweight consignment, a penalty of Rs. 1,29,371 was imposed. In addition, the contract was terminated and the security deposit of Rs. 7,71,975/- was forfeited. On the same date, a fresh e-auction was also floated for allotment of the parcel space to a third party. These actions compelled the petitioner to file the present writ petition.

3. The petitioner challenged the legality and fairness of the impugned actions on multiple grounds. It was alleged that the goods were not weighed in the presence of the petitioner, rendering the claim of overweight detection arbitrary and baseless. Furthermore, the petitioner was neither given prior notice nor afforded an opportunity to respond or present a defence before the alleged weighment was conducted. This is particularly significant given that, in accordance with Clause 27.8, the Railway authorities were obligated to make a bona fide effort to conduct the weighment in the presence of the concerned leaseholder. The failure to adhere to this requirement constitutes a clear violation of the principles of natural justice.
4. According to the petitioner, although the Railway authorities terminated the contract and forfeit the security deposit referring to clause 28.3 and Clause

17.3 of the terms and conditions of the contract, these two clauses did not exist in the Special Conditions and Standard Conditions of the Contract.

5. Clause 14.3 of the Special Conditions of Contract provides that the contract can only be terminated, with forfeiture of the security deposit, if overloading beyond the permissible tolerance limit is detected on more than two occasions. Therefore, even assuming overloading occurred in the present case, it was the first instance, and the condition for termination has not been met.
6. Clauses 16 and 16.1 of the Standard Conditions of Contract provide for an appeal against the order of termination and forfeiture of the security deposit, which must be filed within 30 days from the date of such order. Furthermore, Clauses 17 and 17.1 stipulate that if, for any reason, it becomes impossible for the contractor to continue with the contract, the contract may be terminated by giving 30 days' notice, provided that a minimum period of six months under the contract has been completed. In such a case, the entire security deposit is to be refunded. However, in the present case, before expiry of that period, a fresh tender was floated prematurely on 18.08.2023. The petitioner contended that, as a result of the actions undertaken by the Railway authorities, he has suffered substantial financial loss.
7. The petitioner preferred an appeal under Clause 16 by submitting a representation to the Chief Commercial Manager and Divisional Railway Manager (DRM) on 21.08.2023. During pendency of the appeal, the petitioner preferred a writ petition, WPA 21549 of 2023. Taking note of the fact that the appeal had already been disposed of, a Co-ordinate Bench accordingly disposed of the writ petition, granting liberty to the petitioner to pursue

appropriate remedies in the event he is aggrieved by the order passed by the Appellate Authority.

8. However, according to the petitioner, the appellate process was vitiated by procedural irregularities. Although a personal hearing was granted on 12.09.2023 and an order was subsequently passed by the Appellate Authority on 11.10.2023, the said order was never served upon the petitioner.
9. The petitioner further contends that the Appellate Authority erroneously relied on Clauses 17.3 and 28.3 of the terms and conditions of the contract and incorrectly concluded that the petitioner's consignment weighed 8,344 kg, whereas the permissible limit was 4 metric tonnes, i.e., 4,000 kg.
10. In view of these facts, the petitioner, in essence, the petitioner prays for restoration of the contract, refund of the security deposit and penalty amount, compensation for loss of goods and business.

Respondents' case:

11. At Pandit Deen Dayal Upadhyaya (PDDU) Railway station, the Train Examiner observed that the buffer height of the overloaded wagon was significantly lower than that of the locomotive, thereby posing a serious safety threat. Such a discrepancy could have potentially resulted in a derailment or an accident with severe consequences. Accordingly, the Train Examiner advised that the consignment loaded in the overloaded FSLR-I compartment be unloaded and re-weighed.
12. Thereafter, based on a joint report dated 11.08.2023 issued by the Chief Loco Inspector, PDDU Station, Senior Section Engineer (Carriage & Wagon), PDDU Station, Chief Parcel Supervisor, PDDU Station, and the Deputy Station Superintendent, PDDU Station, the consignment was unloaded and

weighed in the presence of Parcel Staff, Railway Protection Force (RPF), and the Chief Loco Inspector. The weight of the consignment was found to be 8,344 kg, as against the permissible carrying capacity of 4,000 kg. A joint inspection report was prepared. In order to complete the entire process, the passenger train was halted for duration of two hours.

13. The petitioner was permitted to load the FSLR-1 compartment up to a maximum limit of 4,000 kg. However, he loaded 8,344 kg, exceeding the permissible limit by approximately 134%. Such excessive overloading, being more than double the designated carrying capacity of the rake
14. Clause 18.1 of the Standard Conditions of Contract, as outlined in Freight Marketing Circular No. 11 of 2022, empowers the Railway authorities to terminate the contract at any time, without prior notice, as a punitive measure in the event of any violation of the contractual terms and conditions or any serious misconduct. Such misconduct includes, but is not limited to, violations of the Railway Act, 1989, commission of unlawful acts contrary to good industry practices, or acts involving moral turpitude. In such cases, the authorities are also entitled to forfeit the entire Earnest Money Deposit (EMD) and Security Deposit (SD). In view of the petitioner's alleged serious misconduct, the Railway authorities invoked Clause 18.1, terminated the contract, and proceeded to forfeit the EMD and SD.
15. The affidavit-in-opposition refuted the allegation that the Railway Authority had fabricated a 'gossip' regarding a discrepancy in buffer height between the Locomotive and the Front SLR-I with any ulterior motive. It further denied that this purported discrepancy was used as a pretext to justify the unloading and re-weighing of the goods. The petitioner paid the penalty

amount on 12.08.2023. Subsequently, an order of termination was issued and served upon the petitioner on 17.08.2023. The petitioner filed an appeal against the termination order on 21.08.2023. A personal hearing was granted to the petitioner on 12.09.2023, and the appeal was ultimately disposed of by an order dated 11.10.2023, which was duly send by speed post at the petitioner's address mentioned in that writ petition.

16. In accordance with Item No. 65 of the New Items in the Schedule of Powers (SOP) 2018, Part-E – Commercial Matters, when a bid or agreement awarded through the e-Auction mode is terminated due to non-performance or for any other reason as per the terms of the contract, the Railway Administration is required to re-invite bids immediately through e-Auction. This is done to monetise the Railway asset and prevent any potential loss of revenue. The revised reserve price for the re-auction shall be fixed at an amount equivalent to the second-highest bid received in the previous e-Auction, or the original/reassessed reserve price, whichever is higher. Therefore, to monetise the Railway asset and prevent any potential loss of revenue, the re-auction process was initiated. The petitioner was free to participate in the re-auction held on 4.9.2023.

17. The petitioner cannot claim only his contractual rights: he had to discharge his contractual obligations also. The petitioner violated the terms of the contract and as such, suffered an order of termination of contract and forfeiture of EMD/SD for which it was the petitioner who himself was to blame. The advance fare of 4 trips were taken from the petitioner and the same is under process of payment. The answering respondents took exception

of the fact in the writ petition, the Railway authority was called as ‘monster’ by the petitioner, who by overloading put the life of thousand passengers at risk.

18. In terms of Clause 10 of FM Circular No. 12 of 2022, the responsibility for loading and unloading operations of parcels in the leased parcel space at the originating, destination, and intermediate stations lies with the contractor. Further, Clause 9.7 of the same circular stipulates that the contractor is responsible for ensuring that the total weight of consignments loaded in the parcel space does not exceed the permissible carrying capacity of the vehicle/unit leased to them at any point during its journey. The act of overloading by 134% of the permissible carrying capacity constitutes a blatant violation of the contractual provisions and thereby endangering the lives of travelling passengers.

Contents of affidavit-in-reply of the petitioner:

19. There was no overloading in the FSLR-I of the rake, and the goods were unlawfully unloaded and weighed in the absence of the petitioner. The situation arose due to defective buffers installed by the Railway authorities. The train itself was faulty and operated as a slow-moving train, lacking modern equipment, including an advanced locomotive braking system. The difficulty in train movement resulted from the jamming of the buffers—not from any overloading which is substantiated by the Expert’s report. Accordingly, the petitioner cannot be held responsible for the buffer jamming incident.
20. On 12.08.2023, under threat of arrest, the petitioner was forced to sign on the Delivery Registrar and pay the exorbitant amount of penalty in contravention of the Clause 14-4 of the Freight Marketing Circular no. 12 of

2022 and the Appellate Authority also accepted such contention of the petitioner. The Railway authorities did not specify which clause or clauses was or were violated by the petitioner.

21. The clause 10.4 of the Special Conditions for Contract stipulates that after putting the padlock by the contractor before the departure of the train, Railway staff can complete other formalities including sealing of brake van (SLR). Therefore, since the sealing is done and/or supervised by the Railway staff, story of overloading is unbelievable. The Railway authorities acted illegally by imposing three punishments.

Submissions:

22. Mr. Bhattacharya, the learned Senior Advocate representing the petitioner, contended that the alleged weighment of the goods was carried out in absence of the petitioner. He emphasized that no prior notice was issued to the petitioner, nor was any opportunity granted to respond or present a defence before the weighment took place. He submitted that under Clause 27.8, the Railway authorities were duty-bound to make a genuine effort to ensure that the weighment was conducted in the presence of the leaseholder. The failure to comply with this procedural requirement amounts to a blatant breach of the principles of natural justice.
23. He further submitted that Clause 10.4 of the Special Conditions of Contract clearly states that once the contractor secures the consignment with a padlock prior to the train's departure, the Railway staff are responsible for carrying out the remaining formalities, including sealing the brake van (SLR). Given that the sealing process is undertaken and/or overseen by Railway

personnel, the allegation of overloading appears implausible and lacks credibility.

24. He argued that any disruption in the smooth operation of the train was attributable to defective buffers installed by the Railway authorities. The train in question was outdated and lacked modern equipment, including an advanced locomotive braking system. The difficulty in movement was caused by buffer jamming, not by any overloading of goods. Therefore, the petitioner cannot be held liable for the incident involving the jamming of the buffers.
25. He further argued that under clause 14.3 of the Special Conditions, termination of contract is warranted only after the third instance of overloading. However, in the case at hand, the overloading, if any, was a first-time occurrence. Therefore, according to him, the Railway authorities have illegally terminated the contract and forfeited the contract.
26. On 12.08.2023, the petitioner was coerced into signing the Delivery Register and paying an unreasonably high penalty under the threat of arrest, in blatant disregard of Clause 14.4 of the Freight Marketing Circular No. 12 of 2022. In addition to this, the Railway authorities proceeded to terminate the contract and forfeit the security deposit. According to the petitioner, this amounted to being penalized three times for a single alleged offence.
27. To bolster his submission, he cited certain decisions, reported *at (1993) 4 SCC 727 (Managing Director Ecil Hyderabad Etc. .. vs. B. Karunakar Etc.)*, *AIR 2011 SC 2709 (Kesar Enterprises Ltd. Vs. State of U.P. & Ors.)*, *(2010) 4 SCC 785 (Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla And Brothers)*, *(2020) 16 SCC 489 (Silppi Constructions Contractors vs. Union of India & Ors.)*, *(2021) 12 SCC*

780 (Benedict Benis Kinny vs. Tulip Brian Miranda & Ors.) & (2021) 19 SCC 706 (State of Uttar Pradesh vs. Sudhir Kumar Singh & Ors.).

28. In response, Mr. Nandy, the learned Senior Advocate representing the Railway authorities, contended that the train in question was a passenger train, and one of its rakes had been leased to the petitioner for a duration of two years, covering 731 trips. He further clarified that the maximum permissible carrying capacity of the leased rake was 4 metric tonnes (i.e., 4000 kilograms).
29. Mr. Nandy further stated that on 11.08.2023, the train driver experienced difficulty in operating the train. Based on the driver's report, the train was halted at PDDU station and subsequently examined. During the inspection, the Train Examiner observed that the buffer height of one of the wagons identified as overloaded was significantly lower than that of the locomotive. This discrepancy, he contended, posed a serious safety threat and could have potentially caused a derailment or a major accident. As a result, the Train Examiner recommended that the consignment loaded in the overloaded FSLR-I compartment be offloaded and reweighed. He refuted the allegation that the driver experienced difficulty in operating the train due to its age or outdated condition.
30. He submitted that, following the incident, the consignment was unloaded and weighed on the basis of a joint report dated 11.08.2023, prepared by the Chief Loco Inspector, the Senior Section Engineer (Carriage & Wagon), the Chief Parcel Supervisor, and the Deputy Station Superintendent, all from PDDU Station. The weighment was conducted in the presence of the Parcel Staff, RPF, and the Chief Loco Inspector. It was found that the

consignment weighed 8,344 kilograms, exceeding the permissible limit of 4,000 kilograms by approximately 134%. A joint inspection report was accordingly prepared. To carry out this entire process, the passenger train had to be halted for approximately two hours. He asserted that it would not be practical to delay the train at the station solely to secure the presence of the leaseholder for the purpose of re-weighing the goods.

31. He argued that overloading the goods by 134% beyond the permissible limit posed a serious risk and could have led to a major accident with serious consequences, including the potential loss of innocent lives. Therefore, such an act, in his view, constituted serious misconduct. Accordingly, the Railway authorities were justified in invoking Clauses 17.3 and 28.3 of the contract terms, leading to the termination of the contract and forfeiture of the security deposit.
32. He argued that although the rake was sealed by Railway staff, the responsibility for proper loading of goods at the originating station rests solely with the leaseholder. Therefore, the petitioner cannot put blame upon the staff who merely sealed the rake. He further submitted that, in order to monetise the Railway asset and prevent any potential loss of revenue, a fresh auction process was initiated in accordance with the relevant rules. The petitioner was at liberty to participate in that auction. In support of his submission, he relied upon an unreported decision by a Hon'ble Bench headed by the Hon'ble the Chief Justice in *FMA 531 of 2024 (M/s. TOTCO vs. The Union of India & Ors.)*.

Analysis:

33. Undeniably, it is a well-settled principle of law that the scope of judicial review in contractual matters is limited. The writ remedy is essentially a public law remedy, and for such remedy to be invoked, the action of the authority must fall within the domain of public law. However, it is equally recognized that the legal rights of an individual may arise from a contract or an instrument that has the force of law. Interference in writ jurisdiction in contractual matter is permissible only if public law element is involved otherwise, the remedy is to seek damages or specific performance in civil proceedings.
34. The State, or any of its corporations, instrumentalities, or agencies, possesses the freedom to contract and is entitled to enter into agreements with individuals of its choice. It may determine the terms and conditions of such contracts and, at its discretion, decide the method and criteria for inviting bids, including granting relaxation of certain conditions. However, once the State or its agency lays down specific norms, procedures, and terms and conditions, it is bound to adhere to them. Any deviation from those terms must not be arbitrary or unreasonable.
35. It is well-established that even in contractual matters, a writ court is entitled to interfere where it is found that the State or its agency, in entering into a contract with an individual, has acted illegally, irrationally, or in a manner that fails to withstand the test of reasonableness.
36. In the present case, it is an admitted position that a contract bearing No. PCL-12311-F1-060623 dated 06.06.2023 was executed between the Howrah

Division–Commercial, Eastern Railway and Sabir Road Carriers, Delhi, for the leasing of a parcel space in a Single Compartment SLR coach. The lease was for a period of two years, commencing from 22.06.2023 to 21.06.2025 covering 731 trips @ Rs. 42,300/- per trip, pursuant to an e-auction held on 06.06.2023. The lease pertained to Train No. 12311, operating from Howrah to Kalka, with the designated SLR compartment having a carrying capacity of 4 metric tonnes (MT). The contract was governed by the Special and Standard Conditions of Contract.

37. In order to effectively address the contours of the controversy involved in the writ petition, it is essential and indeed unavoidable to enumerate certain relevant clauses from the Special Conditions, Standard Conditions, and other applicable contractual provisions.
38. Clauses 10.1 and 10.2 of the Special Conditions of Contract (Annexure P/2 to the writ petition) stipulate that the loading and unloading of parcels in the leased parcel space at the originating, destination, and intermediate stations must be carried out and completed by the contractor within the available time. Clause 10.4 further provides that the contractor is required to padlock the brake van before the departure of the train, after which the Railway staffs are to carry out the remaining formalities, including sealing the brake van (SLR). Additionally, Clause 10.5.1 prescribes that if a train is detained beyond its scheduled stoppage time due to loading or unloading by the contractor, a fine of Rs. 5,000 shall be imposed for each such instance. Clause 14.1 specifies that loading/unloading will not be supervised by railway staff.

39. Accordingly, the responsibility for carrying out loading and unloading operations within the available time at the originating and destination stations, rests solely with the contractor. The role of the Railway staff is limited to sealing the brake van after the completion of these operations.
40. Clause 14.2 of the Special Conditions of the contract provides that weighment of consignments loaded in leased SLRs and Parcel Vans shall be governed by Freight Marketing Circular No. 07 of 2021 (issued via letter no. 2019/TC(FM)/11/10 dated 03.05.2021), as amended from time to time. Clause 14.3, which is central to the dispute in the writ petition, stipulates that if overloading beyond the permissible tolerance limit—1.0 tonne for Parcel Vans and 5% of the permissible carrying capacity for SLR compartments—is detected more than twice under a single contract, the contract shall be terminated and the security deposit forfeited. For clarity, the contract will be terminated upon the third such instance of overloading.
41. Clause 18.8 of the Special Conditions stipulates that the contractor shall be liable to make good any damage caused to the Brake Van, Parcel Van, platform, or other Railway property during handling of parcels at any station. Clause 18.10 empowers the Railway to impose penalties if a derailment is proven to be caused by overloading. In such cases, the Railway may terminate the contract, cancel the contractor's registration depending on the severity of the incident, and recover re-railment charges. The Railway also reserves the right to open padlocks and seals in unavoidable situations such as accidents or strikes etc. Annexure-2 to the Special Conditions requires the contractor to make specific declarations on the reverse side of the Manifest, including a

statement that consignments loaded in leased SLRs or Parcel Vans shall not exceed the permissible carrying capacity at any point during transit.

42. Clause 16.1 of the Standard Conditions provides for an appeal against orders of contract termination and forfeiture of EMD/SD. Sub-Clause 17.3 empowers the Railway to terminate the contract at any time, without notice, as a punitive measure for breach of terms of contract or serious misconduct. Clause 18.1, which is also pivotal to the present dispute, reiterates this right by allowing termination without notice for any violation of the contract, the Railway Act, 1989, engagement in unlawful acts contrary to industry norms, or acts involving moral turpitude, along with full forfeiture of the EMD/SD. Clause 19 further authorizes the Railway to impose penalties on the contractor for passenger inconvenience or other specified reasons, at the prescribed rates.
43. The termination order dated 17.08.2023 records that on 11.08.2023, an overloading of 4,344 kg exceeding the permissible limit of 4,000 kg, was detected, leading to an unwarranted detention of the passenger train by 114 minutes. The Railway authorities viewed this as a serious misconduct, posing risks to rolling stock, track, and the safety of passengers. Consequently, invoking Clauses 28.3 and 17.3, the contract was terminated, the Security Deposit forfeited, and a penalty of Rs. 1,29,371/- imposed. Clause 28.3 of Freight Marketing Circular no. 11 of 2022 further provides that, notwithstanding Clause 28.2, the Railway reserves the right to terminate the contract without notice in cases of serious violation, illegal activity, or conduct contrary to Good Industry Practices, along with forfeiture of the Security Deposit.

44. Admittedly, this Court is not a fact-finding authority, and the scope of judicial review is confined to examining the decision-making process. As noted earlier, the petitioner availed the appellate remedy under Clause 16.1 of the Standard Conditions. The appellate order, which was passed after granting the petitioner an opportunity of hearing, recorded that the petitioner's representative, who arrived at PDDU station on 12.08.2023, did not request re-weighment of the parcels in his presence.
45. The appellate order noted that, at the relevant time, the loco pilot refused to start the train due to uneven coupling between the first SLR (No. ER 112736) and the engine (No. 37169), and requested inspection by the TXR (Train Examiner) staff. Upon examination, the TXR staff found that overloading in the SLR had caused a coupling mismatch, creating an unsafe condition. Consequently, the TXR staff issued a memo directing the unloading of packages from FSLR-I.
46. The contractor declared in the manifest dated 10.08.2023, which was submitted in the Howrah Parcel Office, that there were 193 packages and 3990 Kgs. of consignment. The order mentioned that loading is not supervised by the Railway authorities. However, after unloading the consignment, it was found that there were 171 packages. Weighment was done in presence of Parcel Staff, RPF and Chief Loco Inspector (CLI) of PDDU station. For completion of unloading the parcels and re-weighment etc., the train which was a passenger train was detained by 113/114 minutes.
47. The main thrust of the petitioner's argument was that conducting the re-weighment of parcels without his presence amounted to a serious violation of the principles of natural justice. However, he failed to produce any material to

contradict the appellate order's finding that his representative did not request re-weighment on 12.08.2023. Additionally, he could not cite any contractual provision mandating that re-weighment be carried out in the presence of the contractor or his representative in cases where overloading necessitates unloading at any intermediate station to ensure the safe operation of a passenger train. It is a settled presumption that official acts are regularly performed, and in the absence of compelling evidence suggesting mala fide intent or procedural impropriety, this presumption remains un rebutted.

48. To invoke extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, one must show that he has existing fundamental or legal rights and infraction of that right or rights has resulted in his personal injury and prejudice. Breach of *audi alteram partem rule*, may claim involvement of public law element. However, currently, there is a shift from its earlier concept that even a small violation of natural justice shall result in the order being rendered a nullity. Presently, a clear distinction has been drawn between the cases where there was no hearing at all and the cases where there was mere technical infringement of the principle [See, the judgment of Sudhir Kumar Singh (*supra*)].

49. In the present case, Mr. Bhattacharya contended that the principles of natural justice were violated, as the re-weighment was carried out in the absence of the petitioner's representative, and no prior notice was issued before the termination of the contract and forfeiture of the Security Deposit (SD). However, as previously noted, the petitioner's representative did not request that the re-weighment be conducted in his presence. Furthermore, it is an admitted fact that, in accordance with the Standard Conditions of

Contract, the Railway authorities were vested with the right to terminate the contract and forfeit the SD without prior notice.

50. It is well settled proposition of law that the principles of natural justice cannot be put into a *strait-jacket* formula and that its application will depend upon the fact situation obtaining therein. It cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case.

51. The present case serves as a reminder of the well-established principles of law, as enunciated in *Gorkha Security Services v. Government (NCT of Delhi)*, (2014) 9 SCC 105. The Supreme Court observed that the rules of natural justice are not embodied rules, nor are they elevated to the status of fundamental rights. Their primary objective is to ensure justice and prevent its miscarriage. It is a settled proposition of law that, unless a statutory provision expressly or by necessary implication excludes them, the exercise of any power that prejudicially affects an individual must conform to the principles of natural justice. It is axiomatic that principles of natural justice do not supplant the law, but supplement the law. Its application may be excluded wither expressly or by necessary implication. (See, judgment of *Dr. Umrao Singh Choudhary vs. State of Madhya Pradesh*, reported at (1994) 4 SCC 328). In the present case, as noted earlier, the Railway authorities reserved its right to terminate the contract and forfeit the SD without any notice. Taking note of this stipulation in the contract, the petitioner entered into the contract.

52. The petitioner was granted a hearing by the Appellate Authority. Notably, during the proceedings on 12.08.2023, the petitioner's representative did not allege any coercion by the Railway authorities regarding the penalty payment, nor was any contemporaneous complaint filed with any authority.

Furthermore, the issue of lack of prior notice before termination of the contract and forfeiture of the Security Deposit (SD) was not raised before the Appellate Authority. In *B. Karunakar* (as cited in *Sudhir Kumar Singh*), the Hon'ble Court held that in cases of alleged violation of natural justice, such as non-supply of an enquiry report, the burden lies on the delinquent to demonstrate that the omission caused prejudice and led to a miscarriage of justice. Absent such a showing, the punitive order cannot be set aside merely on procedural grounds.

53. In *Sudhir Kumar Singh (supra)*, the Hon'ble Court ruled that no prejudice arises from a breach of natural justice if the person concerned does not dispute the case against him or it, whether through estoppel, acquiescence, waiver, or failure to challenge or deny the facts. In that case, the Court can held that no real prejudice was caused. In the present case, the petitioner's legal or fundamental rights, if any, arise from the terms of the contract. Being fully aware that the Railway authorities had reserved the right to terminate the contract and forfeit the Security Deposit (SD) in the event of a breach, without any prior notice, the petitioner voluntarily accepted these terms and entered into the agreement. Therefore, in light of the facts, it can be concluded that no prejudice was caused to the petitioner either due to the omission of re-weighment of parcels at PDDU station or the absence of any prior notice before termination of the contract and forfeiture of the SD. It is pertinent to note that the termination of the contract and forfeiture of the Security Deposit did not debar the petitioner from participating in future auction processes.

54. The next issue that survives for consideration is whether the Railway authorities were justified in terminating the contract and forfeiting the Security Deposit. As previously noted, Clause 14.3 of the Special Conditions of Contract provides that if overloading beyond the permissible tolerance limit—namely, 1.0 tonne for Parcel Vans and 5% of the permissible carrying capacity for SLR compartments—is detected more than twice under a single contract, the contract shall be terminated and the Security Deposit forfeited. It further clarifies that termination will follow upon the third instance of overloading. Therefore, Clause 14.3 applies in cases where overloading is within 5% of the permissible carrying capacity for SLR compartments. In cases of overloading by 134% of the permissible limit, this clause cannot be invoked.
55. An act of overloading to the extent of 8,344 kgs, where the permissible tolerance limit was 4,000 kgs—amounting to over 134% of the allowable limit—was considered by the Railway authorities as not being in line with good industry practices and amounting to serious misconduct on the part of the contractor. Experts opined that such excessive overloading could have led to a serious accident involving the passenger train. Furthermore, the contractor had furnished incorrect information in the manifest regarding the number of packages and the weight of the parcels. Therefore, considering the misconduct, I find no justification to hold that the decision was perverse or that the punishment was disproportionate.
56. I have carefully considered the decisions cited on behalf of the petitioner. While there is no dispute regarding the binding nature of those precedents, they are factually distinguishable and do not come to the aid of the petitioner in the present case.

Order:

57. Therefore, based on the discussions and reasons set out in the preceding paragraphs, I am of the view that the petitioner's contentions are without merit. I find no infirmity in the decision-making process, nor any perversity in the decision of the Railway authorities to terminate the contract and forfeit the Security Deposit. Consequently, the writ petition is dismissed, however, without any order as to costs.

(Partha Sarathi Chatterjee, J.)