

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1417 of 2024

Petitioner :- Vijay Pratap Singh

Respondent :- Union Of India And Another

Counsel for Petitioner :- Arun Mishra

Counsel for Respondent :- A.S.G.I.,Pranjal Mehrotra

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Vikas Budhwar,J.

1. This writ petition purportedly in public interest has been filed by the petitioner, who is an Advocate seeking to question the validity of provisions of Part of Section 7 of the National Highways Act, 1956 (in short, 'the Act') and notification dated 13.02.2021 declaring all lanes of Fee Plaza as FASTag lanes.

2. It is *interalia* indicated in the petition that the petitioner travelled from Allahabad to Varanasi through NH-19 on 03.06.2024 in his car, which does not have a FASTag and crossed the Fee Plaza Handia, Allahabad and on return from Varansi crossed the same Plaza. It is indicated that though the rate fixed is Rs. 230/-, he was charged Rs. 230/- with penalty for not having FASTag.

3. Submissions have been made that under the Provisions of Section 3 of U.P. Motor Vehicle Taxation Act, 1997, the petitioner has already paid one time tax as per the rates applicable and, therefore, charging of the fee at the Toll Plaza amounts to double taxation.

4. Further submissions have been made that under the provisions of National Highways Fee (Determination of Rates and Collection) Rules, 2008 (in short the 'Rules 2008') also, the said fee is not chargeable. Submissions have also been made that charging of fee based on type of vehicles is not justified, the same may be based on the value of the vehicle in the same way as Road Tax is being charged.

5. Based on the said submissions, it is urged that the provisions of Part of Section 7 are unconstitutional and the notification declaring all

lanes of Fee Plaza as FASTag Lane is arbitrary and whimsical and, therefore, the same deserves to be set aside.

6. Learned counsel for the petitioner attempted to make submissions that the action of the respondents in designating all the lanes at the Toll Plaza as FASTag lanes is wholly unjustified and on account of said action, the petitioner, who was not having FASTag was forced to pay double toll, which is not justified.

7. Submissions were made that once the road tax has been paid, there is no question of seeking payment of any toll fee and on that account, Provisions of Section 7 as well as notification issued deserves to be quashed and set aside.

8. We have considered the submissions made by learned counsel for the petitioner and have perused the material available on record.

9. Perusal of the petition would reveal that the petitioner has questioned the validity of Provisions of Section 7 of the Act whereas, the toll fee is charged under the Provisions of Section 8(A) of the Act, which empowers the Central Government to enter into an agreement in relation to the development and maintenance of the whole or any part of National Highway and notwithstanding anything contained in Section 7, the person with whom the agreement is entered into is entitled to collect and retain fees at such rate, for services or benefits rendered by him as the Central Government may specify and, therefore, the challenge laid to the Provisions of Section 7 of the Act is wholly misplaced.

10. Further, second proviso of Sub Rule (3) of Rule 6 of Rules 2008 specifically provides for user of vehicle not fitted with FASTag shall pay fee equivalent to two times of the fee applicable to that category of vehicle as prescribed. The very fact that the Central Government has been empowered under the Provisions of the Act and the Rules, with a view to promote the payment through digital mode and to provide for a seamless passage through the Fee Plaza has decided that all the lanes in the Fee Plaza shall be declared as FASTag lanes and

fee shall be paid through FASTag by way of policy decision, which decision apparently cannot be faulted in view of fast changing scenario of the National Highways wherein in absence of FASTag facility, commuters used to line up for long hours at a particular Toll Plaza for passing through them.

11. The plea raised pertaining to double taxation apparently has no basis as purport and authority for imposing road tax and charging of toll fee, are totally independent of each other and under different legislations. Suggestion made regarding charging of the fees based on the value of the vehicle also is contrary to the provisions of Rule 4 of Rules of 2008 wherein the charge of the fees is based on type of vehicle and not the value of the vehicle.

12. In view of above fact situation, it apparently cannot be said that any public interest is involved in the present petition, wherein the petitioner, a lawyer, having decided not to fit a FASTag in his car was required to pay the amount in accordance with the Provisions of the Act and Rules.

13. Besides the above, the enabling provisions have not been questioned, which is also a reason enough not to entertain the present petition.

14. Consequently, the writ petition is **dismissed**.

Order Date :- 1.08.2024

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(Vikas Budwar, J.) (Arun Bhansali, CJ)