

## **Federation Of Railway Officers ... vs Union Of India on 13 March, 2003**

**Equivalent citations: AIR 2003 SUPREME COURT 1344, 2003 (4) SCC 289, 2003 AIR SCW 1764, 2003 (3) SCALE 251, 2003 (4) ACE 37, (2003) 5 JT 123 (SC), (2003) 6 ALLINDCAS 171 (SC), 2003 (6) ALLINDCAS 171, (2003) 2 SCR 1085 (SC), 2003 (5) SRJ 495, 2003 (5) JT 123, 2003 (2) SLT 813, (2003) 3 CIVILCOURTC 247, (2003) 3 RECCIVR 450, (2003) 4 ICC 572, (2004) 24 INDLD 199, (2003) 3 SUPREME 265, (2003) 3 SCALE 251, (2003) 2 WLC(SC)CVL 56, (2003) 5 INDLD 272, (2003) 4 ALL WC 2738, (2003) 2 MAD LJ 190, (2003) 104 DLT 79, (2002) 3 MAD LW 845, (2002) 3 BANKCAS 627, (2004) 3 BANKCLR 760, (2003) 8 ALLINDCAS 508 (MAD)**

**Bench: S. Rajendra Babu, G.P. Mathur**

CASE NO.:

Special Leave Petition (civil) 1838 of 2002

PETITIONER:

FEDERATION OF RAILWAY OFFICERS ASSOCIATION AND ORS.

RESPONDENT:

UNION OF INDIA

DATE OF JUDGMENT: 13/03/2003

BENCH:

S. RAJENDRA BABU & G.P. MATHUR

JUDGMENT:

JUDGMENT 2003 (2) SCR 1085 The Judgment of the Court was delivered by RAJENDRA BABU, J. The petitioners before us filed a writ petition in the High Court of Delhi challenging the formation of seven railway zones. The petitioners contended that the notification issued for formation of new zones is violative of Section 3 of the Railways Act, 1989 (hereinafter referred to as 'the Act') as the same is not formed for the purpose of efficient administration of the railways.

The petitioners relied upon a proceeding of the Railway Board and a note prepared for the consideration of the meeting to be held on November 30, 2001. There are several aspects considered in that note, namely, (i) that there is unprecedented financial crunch in the railways and recommendations made by the Railways Reforms Committee in 1984 to form new four Zones remained unimplemented on account of the same and the position has not improved but has only worsened; (ii) that on account of technological innovations by utilisation of Information Technology the Railways can centralise their operations and thus reducing the relevance of the new zones; (iii)

that the Comptroller & Auditor General has recommended for reconsideration of the decision for creation of new zones and division from the point of view of financial viability; (iv) that the Standing Committee of Parliament on Railway have recommended for creation of new zones on the basis of work load, efficiency and effective management; (v) that the Railway Convention Committee recommended that instead of creating new zones expenditure to be incurred on the same could be better utilised for procurement of rolling stock, doubling and renewal of railway lines and in electrification programmes; (vi) that the management cadres and staff federations are not in favour of new zones and divisions; (vii) that Rakesh Mohan Committee has suggested that the formation of additional zones would be of dubious merit and would add substantial cost and be of little value to the system; (viii) that there would be tremendous dislocation in the zones, operating discipline, traffic accounts and staff matters that will affect the system adversely; (ix) that the creation of zones or divisions apart from causing upheaval will also divert the railway's attention to restructure itself to be more competitive in the market; (x) that therefore, the Board was of the view that it would not be appropriate for formation of seven new zones in the context of financial crunch, the opinion expressed by the Parliamentary Committees and, therefore, calls for further examination of the matter. The petitioners also placed reliance upon the draft that has been prepared by the Member Secretary of the Committee to finalise the detailed territorial jurisdiction of new zones and stated that "Though the recommendations of the Study Group were accepted by the Railways in principle, the entire issue was further examined in the Railway Board and the final proposal was made for the creation of the six new zones, four as per the Report of the Study Group and two additional zones with the objective of the development of the backward areas particularly of Orissa and Bihar. Another zone of Bilaspur was added as it had heavy workload and in view of the continuous long pending demand of the region...." It was very strongly contended that though Railway Reforms Committee had recommended in 1984 for formation of new zones, the situation has entirely changed in view of various factors referred to above and this was admitted position inasmuch as in Parliament the Minister for Railways answered that no study regarding utilisation of new zones had been conducted and even as late as on March 1, 2002 it was stated that owing to resource crunch the proposed new zones and divisions will only gradually become operational depending on the availability of the investable resources and, therefore, no time frame could be fixed. It was pointed that the expenditure in the creation of new zones would result in accumulation of fresh arrears regarding replacement of over aged assets, thereby affecting safety. Reliance was also placed on a letter addressed by six former Chairmen of the Railway Board. In their joint letter to the Prime Minister sent on July 12, 2002 they stated that the creation of new zones would be operational debacle, a financial disaster and an administrative blunder and from considerations of sound management and operational efficiency, there is a case for reduction in the number of zonal rail headquarters. Therefore, it was contended that the decision in respect of at least three of the seven zones, namely, Hazipur, Bilaspur and Bhubaneswar is not based on any expert study whatsoever and is based on extreneous considerations not germane to efficiency in the railways. For reasons already stated, it was submitted that the recommendations of the Railways Reforms Committee has become outdated in view of the later developments. It was also contended that the formation of Hazipur zone was decided by the Government without any study or report of any expert body within three weeks of a new Railway Minister assuming office whose constituency was Hajipur and Bilaspur zone was announced in an election rally by Shri Atal Bihari Vajpayee, Prime Minister, again without any study or recommendation of any expert body. Therefore, it is submitted that the

decision of the Government in this regard is mala fide. It was further contended that when the statute has provided the guidance in regard to the formation of a policy, the same should be based on proper information obtained from appropriate sources and in this context, the petitioners placed reliance on the decision of this Court in *Bangalore Medical Trust v. B.S. Muddappa*, [1991] 4 SCC 54, and also pointed out that in *Kasturi Lal Lakshmi Reddy v. State of Jammu & Kashmir and Anr.*, [1980] 3 SCR 1338, *Ramana Dayaram Shetty v. International Airport Authority of India and Ors.*, [1979] 3 SCC 489; *Ugar Sugar Works Ltd. v. Delhi Administration and Ors.*, [2001] 3 SCC 635 and *State of U.P. v. U.P. University Colleges Pensioners' Association*, [1994] 2 SCC 729, it was held that even policy decisions of the Government can be interfered with if it is arbitrary or mala fide and manifestly contrary to public interest. They, therefore, submitted that the action taken by the Government should be quashed in reversal of the judgment of the High Court.

Dr. D.P. Pal, the learned senior Advocate who appears in SLP (C) No. 17306/2002 . submitted that the provision of Section 3 of the Act provides for test as to formation of railway zones and the critical test is efficiency in the administration which is an objective test. The criterion being objective, the Court can examine the material on record to draw an inference one way or the other. The efficiency would increase only if it can reduce the cost of administration and the earnings in the zone will increase.

The learned Attorney General referred to the constitution of the Railway Reforms Committee on May 12, 1981 to recommend ways of enhancing the efficiency of the functioning of the Indian railways. At that time, there were nine zones in existence, namely, (i) Eastern Railways (Calcutta), (ii) South Eastern Railways (Calcutta), (iii) Central Railways (Bombay), (iv) Western Railways (Bombay), (v) Northern Railways (Delhi), (vi) Southern Railways (Madras), (vii) North Eastern Railways (Gorakhpur), (viii) North Eastern Frontier Railways (Gauhati), and (ix) South Central Railways (Secunderabad). Railway Reforms Committee proposed the addition of four new zones in phases as follows : in Phase 1, East Central and North Western Railways; in Phase II, North Central Railways; and in Phase III, Southern Western Railways to be considered later. The Railway Reforms Committee also projected the need for 15 zones by the year 2000. It is submitted that the former Chairmen of the Railway Board, namely, Shri M.S. Gujral and Shri M.N. Bery were associated with the Railway Reforms Commission's deliberations as Member and Chairman of the Working Group of Structural Reorganisation. In February 24, 1994 the Minister of Railways in his Budget speech for the year 1984-85 stated that it was necessary to conduct a detailed study to rationalise the geographical distribution of existing zones and divisions and on May 6, 1994 a Study Group was set up consisting of Advisers of the Railway Board to go into the question of reorganisation of railway zones and divisions The Study Group after examination of the entire gamut of the issues pertaining to railway reorganisation recommended the setting up of four additional railways zones, namely, North Western Railway with its headquarters at Jaipur, South Western Railway with its headquarters at Bangalore, East Central Railway with its headquarters at Jabalpur, and North Central Railway with its headquarters at Allahabad. The Minister for Railways in his Budget speech for the year 1995-96 stated that the Committee's recommendations had been accepted. The Union Cabinet, however, deferred the proposal of creating four zones and called for more material from the Ministry of Railways. Thereafter, the Union Cabinet headed by Shri Deve Gowda, then Prime Minister, considered these proposals in their meeting held on July 12, 1996 as to formation of six

new railway zones and they are North Western Railway with its headquarters at Jaipur, South Western Railway with its headquarters at Bangalore, West Central Railway with its headquarters at Jabalpur, North Central Railway with its headquarters at Allahabad, East Coast Railway with its headquarters at Bhubneswar and East Central Railway with its headquarters at Hajipur. At the time of considering the same, the Union Cabinet took into account the financial viability, traffic growth and the norms of carving out a zone before deciding the creation of six new zones on July 16, 1996. Minister of Railways in his Budget speech for the year 1996-97 announced new six zones. Thereafter, on September 9, 1998 the Union Cabinet headed by Prime Minister Shri Atal Bihari Vajpayee approved the creation of a new seventh Zone with headquarters at Bilaspur. On February 22, 1999 the Union Cabinet also decided to move the headquarters of the South Western Railway from Bangalore to Hubli. From 1999 to 2001 the work of Zones had been progressing slowly and a debate was going on for and against the formation of new zones. During this period Railway Board had also expressed reservations in going ahead with formation of zones mainly due to financial crunch. On 29th November 2001 the Minister for Railways while responding to various questions raised in Parliament clarified as follows :-

"In the year 1995 the Union Cabinet had deferred a proposal based on the recommendations of the RRC for creating 4 new Zones. However, in the year 1996, the Union Cabinet had examined and approved the proposal for creating 6 new zones. Subsequently, the Government decided to form the 7th Zone with headquarters at Bilaspur. It is not correct to allege that there had been no examination of the proposal. As far as opinions and observations on the new Zones are concerned, there have always been two opposing views. Further, the slow progress in this regard is attributable to a resource crunch. However, there was never any intention not to proceed with the creation of any of the new Zones as consecutive Governments (the United Front and the National Democratic Alliance governments) had taken a policy decision to create the new Zones."

In December 2001 Railway Board initiated action for operationalisation of new zones. On June 4 and 14, 2002 the Railway Board met and decided to operationalise North Western Railway with its headquarters at Jaipur and East Central Railway with its headquarters at Hajipur by October 1, 2002 after finalising their respective jurisdictions. In the meanwhile, on July 5, 2002 a writ petition was filed by Biswajit Deb, petitioner in SLP No. 17306/ 2002, before the Calcutta High Court challenging the notification of setting up a new zone. The Calcutta High Court dismissed the said petition holding that setting up of new zone is purely a policy decision of the Railway Board to arrange their own administration which cannot be adjudicated in a Public Interest Litigation. The Delhi High Court in the case of petitioner herein in SPECIAL LEAVE PETITION (CIVIL) NO. 16838 OF 2002 held that the jurisdiction of the court in the matter of interference with policy decision of the Government is very limited; that the question whether such a decision should have been taken or whether such a decision would ultimately be beneficial to the Railway Administration in general is not a matter which is within the domain of the court. It is also noticed that the fact that there is no expert body decision in the matter would not call for consideration in a writ proceeding merely because the petitioner or some other persons may have different views in the matter.

On July 26, 2002 a detailed note of reorganisation of the railways was sent to the Union Cabinet to keep it apprised of the current situation and the views of the Standing Committee of Parliament on Railways (1996-97), the Railway Convention Committee (1996), Railway federations, the Deputy Comptroller and Auditor General (1999), the Comptroller and Auditor General (2001) and the comments of Rakesh Mohan Committee (2001) against the formation of additional railway zones were also placed before the Cabinet and the Cabinet did not review its previous decision. Two new zones, that is, North Western Railway with its headquarters at Jaipur and East Central Railway with its headquarters at Hajipur began functioning in accordance with the notification dated June 14, 2002 issued by the Railway Board. It is also pointed out that Parliament had approved the establishment of a Special Railway Fund of Rs. 17, 000 crores by Government to ensure the safety of the railways in accordance with the recommendations of the Railway Safety Review Committee Report, 2000. All the safety related tasks to be carried out on the basis of moneys drawn from this Fund have been listed and placed before Parliament and have been approved by Parliament as part of the Railway Budget.

The learned Attorney General also placed reliance on the decision of this Court in *Rustom Cavasjee Cooper v. Union of India*, [1970] 3 SCR 530, wherein whether a right arising under Article 19(1)(g) is not protected against operation of any law imposed in the interest of general public to be reasonable restrictions on the exercise of the right conferred by the said sub-clause was considered. In this context, an argument was raised that the enactment of Bank Nationalisation was not in the larger interest of the nation but to subserve political ends, that is not with the object to ensure better banking facilities, or to make them available to a wider public, but only to take control over the deposits of the public with the major banks, and to use them as a political lever against industrialists who had built up industries by decades of industrial planning and careful management and the Court's attention was invited to a mass of evidence from the speeches of the Deputy Prime Minister and of the Governor and the Deputy Governor of the Reserve Bank and also extracts from the Reserve Bank Bulletins issued from time to time and other statistical information collected from official sources in support of the thesis of the petitioner that the performance of the named banks exceed the targets laid down by the Reserve Bank in its directives; that the named banks had effectively complied with the requirements of the law and they had served the diverse interests including small scale sector and so on. On the other hand, the learned Attorney General in that case contended that the commercial banks followed a conservative policy because they had to look primarily to the interests of the shareholders and on that account could not adopt bold policies or schemes for financing the needy and worthy causes and that if the resources of the banking industry are properly utilised for the weaker sections of the people economic regeneration of the nation may be speedily achieved; that 28% of the towns in India were not served by commercial banks; that there had been unequal development of facilities in different parts of the country and deserving sections were deprived of the benefit of an important national resources resulting in economic disparities.

This Court held that Court is not the forum in which these conflicting claims may be debated; that whether there is a genuine need for banking facility in the rural areas, whether certain classes of the community are deprived of the benefit of the resources of the banking industry, whether administration by the Government of the commercial banking sector will not prove beneficial to the

community and will lead to rigidity in the administration, whether the Government administration will eschew the profit motive and even if it be eschewed, there will accrue substantial benefits to the public, whether an undue accent on banking as a means of social regeneration, especially in the backward areas, is a doctrinaire approach to a rational order of priorities for attaining the national objectives enshrined in our Constitution and whether the policy followed by the Government in office or the policy propounded by its opponents may reasonably attain the national objectives are matters which have little relevance in determining the legality of the measure and it is again not for this Court to consider the relative merits of the different political theories or economic policies. The learned Attorney General also relied upon the decision in *BALCO Employees' Union (Regd.) v. Union of India and Ors.*, [2002] 2 SCC 333, case wherein it is observed that :-

"It is evident that it is neither within the domain of the courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are our courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical."

The learned Attorney General also pointed out similar observations in *Narmada Bachao Andolan v. Union of India and Ors.*, [2000] 10 SCC 664.

Dr. Pal insisted that the provisions of Section 3 of the Act provides the norms upon which a railway zone can be formed and that is administrative efficiency. Shri Prashant Bhushan and Dr. Pal have, as set forth earlier, contended that on the basis of the material placed by them the formation of zones now under challenge will only result in deterioration of the efficiency of administrative system and not improve, while the stand of the learned Attorney General is that the Government has taken note of the workload index, geographical spread, strength of manpower, traffic streams and patterns for determining optimum size of a zone or a division and, in this context, territorial, ethnic, linguistic or such other considerations are not the basis for reorganisation of the railway zones.

In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical expertise Court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of the power, the Court will not interfere with such matters.

Tested in this background set forth above, what we have to see is whether Government has acted within the parameters of Section 3 of the Act or not. Section 3 of the Act mentions constitution of the railway zones for the purpose of efficient administration. Therefore, to find out what would constitute efficient administration we have to look to various matters on the basis of which the railway zones have been constituted and have been working. In this context, a Committee had been constituted by the Government known as Railway Reforms Committee which submitted its report in

July 1984 after exhaustive consideration of various aspects. The Committee, after taking into consideration the workload and manpower along with the concepts of modernisation, computerisation and updating of technology, traffic pattern, evolved certain formula for the formation of zones. And the Committee further stated that "as for the criterion of geographical spread and the time taken to reach the remotest point of a Zone or Division from its headquarters, each case would have to be examined individually. This is so because the headquarters of the various Zones and Divisions are not always centrally located." Ultimately, the Committee concluded that the immediate requirement of additional zones is three if one goes by the criterion of workload and four if one goes by the criterion of manpower and as for as divisions were concerned, immediate requirement for additional Divisions would appear to be 15 by the criterion of workload and six by the criterion of manpower. The requirement of Zones and Divisions on the basis of the workload by the year 2000 would be even higher. But they did not finally suggest that the Zones and Divisions should be formed at that rate but indicated their interest for examining all those aspects of the matter.

Thereafter a Study Group was constituted consisting of several officers to critically analyse the impact of major developmental projects, to review or define criteria to be adopted while considering issues/demands relating to creation or reorganisation of Zones and Divisions amongst other aspects. They suggested that for addressing the issues relating to rationalisation of geographical distribution and reorganisation of Zones and Divisions, it was essential that there should be broad quantitative norms in consonance with the Railway Reforms Committee's recommendations made earlier. The workload index is now redefined as total transportation effort of a Zone/ Division which is also adequately weighted for the financial performance of these units and should therefore be the over-riding criterion. It was also taken note of that the norm of 200 units by 2000 AD is the optimum value of the workload index both in the case of zones as well as divisions and this interpolated to 1992-93, that is, the last year for which estimated workload indices are presently available. Besides workload, major decision variable is accessibility. They suggested that zones/Divisions which have workload indices in excess of criticality norm and also poor accessibility deserve immediate relief. Heavily worked zones/divisions which are compact, that is, where accessibility of the remote points/activity centres is good and, therefore, does not pose any administrative problem on this account, need not necessarily be truncated for providing relief. Further, in the case of lightly worked zones/ divisions, accessibility alone will not be considered as a necessary and sufficient criterion for providing relief through reorganisation. They are also of the view that the average travelling time between Zonal and Divisional Headquarters and its remote activity centres by a representative Mail/Express train should be about 6 hours in either case. High workload with poor accessibility is the only necessary as well as sufficient condition for providing relief to such zones/divisions through the setting up of new zones and divisions which would arise only after full scope of territorial readjustments between existing, adjoining zones/divisions are fully explored or exhausted. They recommended formation of zones North-Western, South-Western, East-Central and North-Central. Adopting the same criteria as was done by the R.R.C, to which we have adverted already, this study group summed up in its report as follows :-

"The identification of zones/ divisions which deserve attention/relief has been done on the basis of their workload. For computing a zonal /divisional workload index

both physical as well as financial output indicators are taken into account. The norm of 200 workload units in 2000 AD (as had also been suggested by the RRC) is defined as the optimum value of the workload index.

Besides workload the accessibility of activity centres/remote points from its respective zonal/divisional headquarters is the other important criterion. The norm in this case is defined as an average travelling time (between the zonal and the divisional headquarters and, also, between the divisional headquarters and its remote activity centres) of about six (6) hours.

Based on the workload and accessibility norms defined above, zones/divisions which have workload indices in excess of the criticality norm and also poor accessibility have been identified for the purposes of providing relief through reorganisation/creation of new zones and divisions. Ethnic, linguistic and/or territorial (i.e. State Boundaries, etc.) considerations do not form the basis for evaluating issues pertaining to railway reorganisation.

The highlights of the Study Group are given in Annexure-I. M.R. in his Budget (1995-96) Speech on 14.3.95 had, inter alia conveyed that the Committee's recommendations had been accepted by this Ministry and we being processed further."

The credibility of the said report is questioned and its bonafides are doubted on behalf of the petitioners. The various factors considered by them are also certainly relevant for the efficient administration of the Railways. None of these factors taken note of by the study group can be stated to be irrelevant in this context. But what is to be seen is whether the report made by them would, in essence, be not worthy of credit and not merely on imaginary basis such as they are officers of the Government and they would have worked under pressure of the Minister concerned to draw up a report to suit his whims. Therefore, we do not think, we can accept the attack made by the petitioners on the report of the study group.

Cabinet notes were prepared, inter alia, after referring to RRC report, report of the study group extracts of previous cabinet proceedings on the subject, views of the Parliamentary Standing Committee on RCC, views of Railway Federations, reports of Comptroller and Auditor General of India, comments of Rakesh Mohan Committee and proposal was made to set up six new zones - (1) North-Western Railway, headquarters Jaipur; (2) South-western Railway, Headquarters Bangalore; (3) West-Central Railway, Headquarters Jabalpur; (4) North-Central Railway, Headquarters Allahabad; (5) East- Central Railway, Headquarters Hajipur and (6) East Coast Railway, Headquarters Bhubaneswar and various details regarding the workload, route kilometers and information regarding the accessibility and other criteria were fully furnished to the Cabinet. It is indicated that with the criterion of six new zones the accessibility of the Divisional Headquarters with Railway Headquarter will increase and the Indian Railway average will improve to 6.2 hours from the existing 8.9 hours. As regards the cost implication and strategy adopted detailed consideration was made. The impact of the Information Technology was also taken into account.



Various views that had been expressed at different levels and in public both opposing and supporting the formation of new zones were also set forth. On July 12, 1996 the Cabinet authorised the Ministry of Railways to make suitable readjustments in the territorial jurisdiction of the zones.

It has been contended that the objective of developing backward areas or to meet public demand new zones have been formed and such a step will not be consistent with efficiency in administration. These two factors are noticed not in isolation but along with other criteria as to increase in traffic load and accessibility. Therefore, the contention ignores all the factors taken into consideration and is not tenable. Even otherwise, to meet the demands of backward areas cannot by itself be inconsistent with efficiency. When Railway is a public utility service it has to take care of all areas including backward areas. In doing so, providing service, efficient supervision and keeping the equipment and other material in good and workable condition are all important factors. Such services can be appropriately extended if there is an exclusive zone to cater to such areas. If more facilities become available in those zones naturally efficiency would go up. Therefore, the concept of "efficiency" should not be approached in a doctrinaire or pedantic manner. Thus formation of zones in backward areas for providing proper facilities and services will improve the efficiency and not retard it. Merely setting up of new zone in a backward area cannot be condemned only on the basis that it is being formed in a backward area, particularly when it fulfils other criterion to which we have already adverted.

Even if we assume that there is force in the material placed by the petitioners that by forming new railway zones efficiency in the railway administration would not enhance, the reasons given by the Government and material placed by them in support of forming new railway zones is no less or even more forceful. Further, when technical questions arise and experts in the field have expressed various views and all those aspects have been taken into consideration by the Government, in deciding the matter, could it still be said that this Court should reexamine to interfere with the same. The wholesome rule in regard to judicial interference in administrative decisions is that if the Government takes into consideration all relevant factors, eschew from considering irrelevant factors and act reasonably within the parameters of the law, courts would keep off the same. Even on the test suggested by Dr. Pal we cannot travel outside this principle to sit in appeal on the decision of the Government.

The decision in B.S.Muddappa's case is distinguishable both on principle and on facts from the present case. The question in that case is whether 'park' can be allotted to a trust for setting up of a private nursing home. There is no application of mind by any of the authorities as to whether setting up a nursing home in place of a 'park' would amount to an improvement as contemplated under the statute with which this court was concerned in that case. In the present case, the problem is entirely different. The question before the Court is whether formation of zones is for efficient administration of Railways. On this aspect we have considered the rival contentions including the material placed before the Government of India and the criteria evolved for formation of the zones. The test whether such formation of zones is for the purpose of efficient administration of Railways have been duly considered by the Government before taking decision while such consideration was lacking in Muddappa's case. Hence, that decision cannot be of any assistance to appellant. We have applied the principles set out in other decisions relied upon by the appellant to the facts of the case in reaching

our conclusion in this matter.

However, Shri Prashant Bhushan sought to impress upon us that within three weeks of a new Railway Minister assuming office without any study or report or any expert body a new railway Zone Hazipur was announced and steps were taken to constitute such zone. But the material on record would indicate otherwise. Matter has been under consideration of the Government since 1981 as to reorganisation of the zones. Thereafter, a Study Group was formed to look into the matter to make its recommendations. It is only in 1996 a decision was taken by the Government for a zone at Hazipur. If formation of a zone at Hazipur as its headquarters fulfils the norms set up by the Government and there is enough statistical data in that regard, it becomes difficult for us to state that the same is mala fide. Allegations regarding malafides cannot be vaguely made and it must be specific and clear. In this context, the concerned Minister who is stated to be involved in the formation of new Zone at Hazipur is not made a party who can meet the allegations.

The stand of the respondents is that in regard to East Central Zonal Railway and the North Western Zonal Railways efficiency has shown improvement for the months of October-November 2002 as compared to October- November 2001 which is as under :-

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_____ Railway Revenue Tonnes Originating In million Tonnes Earnings in In crores											
2002	2001	%age	2002	variation	2001	%age	variation	East Central			
October	4.32	4.19	3.1	270.82	250.81	7.98	November	4.43	4.31	2.78	264.42
261.4	1.16	Oct + Nov	8.75	8.5	2.94	535.24	512.21	4.50	North Western		
October	1.34	1.12	19.64	97.65	74.74	3065	November	1.23	1.23	0	89.25
73.91	20.75	Oct + Nov	2.57	2.35	9.36	186.9	148.65	25.73	Revenue Tonnes Originating Railway Month		
2002	2001	Variation	October	1.34	1.12	0.22	North-Western	November	1.23	1.23	0
Oct + Nov	2.57	2.35	0.22	October	2.24	2.47	-0.23	Western	November	2.25	2.43
-0.18	Oct + Nov	4.49	4.9	-0.41	October	3.58	3.59	-0.01	Total	November	3.48
3.66	-0.18	Oct + Nov	7.06	7.25	-0.19						

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\_\_\_\_ If these figures furnished by respondents are correct then efficiency on formation of the zones has certainly not deteriorated.

Shri Prashant Bhushan contended that Bilaspur zone was formed subsequent to an announcement made by Shri Atal Bihari Vajpayee in his election speech, but the allegation as to when he had made such a speech is not set out either in the petition filed before the High Court or in these proceedings. Unless full details are given as to place, time or date, it would be very difficult for any one to deny the same, more so when Shri Atal Bihari Vajpayee has not been impleaded as a party in these proceedings.

It is next contended by Shri Prashant Bhushan that though there may have been justification for forming compact zones and they may be economically viable whether Hazipur or Bilaspur or Bhubaneswar should be made zonal Headquarters has not been adequately considered. The decision of the Central Government to locate the headquarters of South Western Railways at Hubli instead of Bangalore was the subject matter of challenge in Union of India and Ors. v. Kannadapara

Sanghatanegala Okkuta & Kannadigara and Ors. Though the High Court had quashed shifting of Headquarters from Bangalore to Hubli, this Court stated as follows :-

"it is not the function of the court to decide the location or the site of the Headquarters, it is the function of the Government."

If benefit of a zonal headquarters in a particular place is more suited than any other place in zone it would not affect the ultimate efficient functioning of the railway administration. Thus all contentions of the petitioners stand rejected.

These petitions stand dismissed.