

GAHC010014202018



**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/412/2018**

BCMS TRADERS PRIVATE LIMITED.  
HAVING ITS PRINCIPLE PLACE OF BUSINESS AT- KABAITRAY,  
JOGIGHOPA, BONGAIGAON, ASSAM, REP. BY MAHESH KUMAR  
AGARWALA, THE DIRECTOR OF B.C.M.S. TRADERS PVT. LTD.

VERSUS

THE UNION OF INDIA  
REP. BY ITS SECRETARY, MINISTRY OF RAILWAYS, RAIL BHAWAN, NEW  
DELHI.

2:THE RAILWAY BOARD

RAILWAY BHAWAN  
NEW DELHI.

3:THE GENERAL MANAGER

NORTH EASTERN FRONTIER  
RAIWAYS  
MALIGAON  
GUWAHATI  
ASSAM.

4:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
JOGIGHOPA  
BONGAIGAON  
ASSAM.

5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
KABAITARI  
BONGAIGAON  
ASSAM

6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
DUDHNOI  
GOALPARA  
ASSAM.

7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
PANCHARATNA (MAKRI)  
GOALPARA  
ASSAM.

8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
GOALPARA TOWN  
ANANDA BAZAR  
GOALPARA  
ASSAM

**Advocate for the Petitioner : R K SHRESTHA**

**Advocate for the Respondent : SC, NF RLY**

Linked Case : WP(C)/1757/2017

MAHALAXMI CONTINENTAL LTD.  
A COMPANY REGISTERED UNDER THE COMPANY ACT  
1956  
HAVING ITS REGISTERED OFFICE AT GALLI NO.8  
N.H. 37  
BELTOLA  
GUWAHATI-29  
ASSAM AND BRANCH OFFICE AT KALPANA NAGAR  
GOALPARA

ASSAM-783101  
REPRESENTED BY ITS AUTHORIZED SIGNATORY

VERSUS

THE UNION OF INDIA and 8 ORS.  
REPRESENTED BY THE SECRETARY  
MINISTRY OF RAILWAYS  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI

2:THE RAILWAY BOARD

RAIL BHAWAN  
NEW DELHI

3:THE JOINT DIRECTOR TRAFFIC COMMERCIAL RATES  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI

4:THE GENERAL MANAGER  
NORTH EASTERN FRONTIER RAILWAYS  
MALIGAON

GUWAHATI ASSAM  
5:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
JOGIGHOPA

BONGAIGAON ASSAM  
6:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
KABAITARI

BONGAIGAON ASSAM  
7:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
DUDHNOI

GOALPARA ASSAM  
8:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
GOALPARA TOWN ANANDA BAZAR

GOALPARA ASSAM  
9:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
PANCHARATNA MAKRI

GOALPARA ASSAM  
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Advocate for : MR.J P MORE  
Advocate for : SC

NF RLY appearing for THE UNION OF INDIA and 8 ORS.

Linked Case : WP(C)/1781/2017

CHANDRA PRABHU INTERNATIONAL LTD.  
A COMPANY REGISTERED UNDER THE COMPANY ACT  
1956  
HAVING ITS REGISTERED OFFICE AT 14  
RANI JHANSI ROAD  
NEW DELHI- 110055 AND BRANCH OFFICE AT KABAITALY  
JOGIGOPHA  
DIST. BONGAIGAON AND REP. BY ITS ONE OF THE DIRECTORS.

VERSUS

THE UNION OF INDIA and 8 ORS.  
REP. BY THE SECRETARY  
MINISTRY OF RAILWAYS  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI.

2:THE RAILWAY BOARD

RAIL BHAWAN  
NEW DELHI.

3:THE JOINT DIRECTOR TRAFFIC COMMERCIAL RATES  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI.

4:THE GENERAL MANAGER

NORTH EASTERN FRONTIER RAILWAYS  
MALIGAON  
GUWAHATI  
ASSAM  
5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
JOGIGHOPA BONGAIGAON  
ASSAM  
6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
KABAITALY

BONGAIGOAN  
ASSAM  
7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
DUDHNOI  
GOALPARA  
ASSAM  
8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
GOALPARA TOWN  
ANANDA BAZAR GOALPARA  
ASSAM  
9:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
PANCHARATNA MAKRI GOALPARA  
ASSAM

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Advocate for : MR.A CHOUDHURY  
Advocate for : DR.B N GOGOIR- 1-9 appearing for THE UNION OF INDIA and 8 ORS.

Linked Case : WP(C)/6582/2011

FUEL SOURCES INDIA PRIVATE LIMITED and 2 ORS  
AN EXISTING COMPANY WITHIN THE MEANING OF THE COMPANIES ACT  
1956 HAVING ITS REGISTERED OFFICE AT RAM KUMAR PLAZA  
1ST FLOOR  
ROOM NO. 10  
CHATRIBARI ROAD  
GHY- 1.

2: M/S PURBANCHAL TRADERS  
A PROPRIETOR CONCERN OF SRI LALCHAND AGARWALA  
RAM KUMAR PLAZA MARKET  
1ST FLOOR  
CHATRIBARI  
GHY-1 ASSAM.

3: M/S S.M. ENTERPRISES  
A PROPRIETOR CONCERN OF SRI SAWARMAL AGARWAL  
RAM KUMAR PLAZA MARKET  
1ST FLOOR  
CHATRIBARI

GHY- 1 ASSAM.

VERSUS

THE UNION OF INDIA and ORS  
REP. BY THE SECY.  
MINISTRY OF RAILWAYS  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI.

2:THE RAILWAY BOARD  
RAIL BHAWAN  
NEW DELHI.

3:THE JOINT DIRECTOR TRAFFICE COMMIERCIAL RATES  
RLY. BOARD  
RLY. BHAWAN  
NEW DELHI.

4:THE GENERAL MANAGER  
NORTH EASTERN FRONTIER RAILWAYS  
MALIGAON  
GUWAHATI ASSAM.

5:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
JOGIGHOPA  
BONGAIGAON ASSAM.

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Advocate for : MR.A GOYAL

Advocate for : MR.A K SARKAR appearing for THE UNION OF INDIA and ORS

Linked Case : WP(C)/1497/2017

M/S MEGHALAYA COAL CONCERN and ANR.  
A PROPRIETOR CONCERN OF MD. HASHIM ALI  
AGIA ROAD  
NAYAPARA  
GOALPARA- 783101  
ASSAM

2: MD. HASHIM ALI  
PROPRIETOR OF M/S MEGHALAYA COAL CONCERN  
AGIA ROAD  
NAYAPARA  
GOALPARA- 783101  
ASSAM  
VERSUS

THE UNION OF INDIA and 8 ORS.  
REP. BY THE SECY.  
MINISTRY OF RAILWAYS  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI

2:THE RAILWAY BOARD

RAIL BHAWAN  
NEW DELHI

3:THE JT. DIRECTOR TRAFFIC COMMERCIAL RATES

RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI

4:THE GENERAL MANAGER

NORTH EASTERN FRONTIER RAILWAYS  
MALIGAON  
GUWAHATI  
ASSAM

5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
JOGIGHOPA  
BONGAIGAON  
ASSAM

6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
KABAITARI  
BONGAIGAON  
ASSAM

7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
DUDHNOI  
GOALPARA  
ASSAM

8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
GOALPARA TOWN  
ANANDA BAZAR  
GOALPARA  
ASSAM

9:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
PANCHARATNA MAKRI GOALPARA  
ASSAM

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Advocate for : MR.J P MORE

Advocate for : MR.A K SARKAR appearing for THE UNION OF INDIA and 8 ORS.

Linked Case : WP(C)/1778/2017

MAHALAXMI MINING PVT. LTD.  
A COMPANY REGISTERED UNDER THE COMPANY ACT  
1956  
HAVIN GITS REGISTERED OFFICE SITUATED AT GALI NO. 7  
N.H. 37  
BELTOLA  
GUWAHATI -29  
ASSAM REP. BY ONE OF ITS DIRECTORS AND HAVING ITS BRANCH  
OFFICE SITUATED AT KALPANA NAGAR  
GOALPARA  
ASSAM-783101.

VERSUS

THE UNION OF INDIA and 8 ORS.  
REP. BY THE SECRETARY  
MINISTRY OF RAILWAYS  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI.

2:THE RAILWAY BOARD

RAIL BHAWNA  
NEW DELHI.

3:THE JOINT DIRECTOR TRAFFIC COMMERCIAL RATES  
RAILWAY BOARD  
RAILWAY BHAWAN  
NEW DELHI.

4:THE GENERAL MANAGER

NORTH EASTERN FRONTIER RAILWAYS  
MALIGAON  
GUWAHATI  
ASSAM  
5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
JOGIHOPOPA  
BONGAIGAON  
ASSAM  
6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS

KABAITARI  
BONGAIGAON  
ASSAM  
7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
DUDHNOI  
GOALPARA  
ASSAM  
8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS  
GOALPARA TOWN ANANDA BAZAR GOALPARA  
ASSAM  
9:THE STATION SUPERINTENDENT  
NORTH EASTERN FRONTIER RAILWAYS  
PANCHARATNA MAKRI  
GOALPARA  
ASSAM

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Advocate for : MR.A CHOUDHURY  
Advocate for : MR.A K SARKAR appearing for THE UNION OF INDIA and 8 ORS.

**BEFORE  
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**Date : 06.02.2024**

None appears for the petitioner on call in WP(C)/412/2018. Heard Mr. A. Goyal, learned counsel for the petitioners in other writ petitions except WP(C)/412/2018. Also heard Mr. B. K. Das, learned standing counsel, NF Railways in WP(C)/412/2018 and Dr. B. N. Gogoi, learned standing counsel, NF Railways                in                WP(C)/6582/2011,                WP(C)/1497/2017, WP(C)/1757/2017,WP(C)/1778/2017 and WP(C)/1781/2017.

2. These writ petitions have been filed putting to challenge the notification/Rates Circular No. 32 of 2011 issued by the Government of India, whereby the respondents Railways decided to levy penalty of        Rs.5000/- on

detention charges as per overloading wagon in case of detention of a rake after weighment warranting load adjustment at the originating station.

3. The challenge is made to the circular on the ground that they are arbitrary and illegal in view of the fact that the Railways (Punitive charges, overloading of wagons), Rules, 2012, which is a set of rules framed under the Railways Act, 1989 is already in place in respect of levy of any such charges in matters of overloading of wagons and therefore, the impugned Rates Circular No. 32 of 2011 issued by the Government of India dated 16.09.2011, imposing further penalty for the same act amounts to double jeopardy or dual penalty for the same act or omission. It is on these grounds that the writ petitions have been filed praying for setting aside the impugned Rates Circular No. 32 of 2011 issued by the Government of India.

4. The learned counsels for the respondents have filed their counter affidavits. Today when the matter is called up, learned standing counsels for the Railways have placed before the Court a Circular dated 16.09.2020, whereby it is shown that under the revised guidelines, detention charges @ Rs.5000/- for overloaded wagon is not leviable and this position has not been altered.

5. It is submitted by the learned standing counsels for the Railways that in view of this instructions received through the Circular, the detention charges circular/rates circular has been withdrawn and is no longer in place. In that view of the matter, the challenge made in the writ petitions have become infructuous as of date.

6. Mr. A. Goyal, learned counsel for the petitioners does not dispute this position on facts. Perusal of the pleadings in WP(C)/412/2018 reveals that the said writ petition has been filed on similar grounds with similar prayer (s).

7. Taking into consideration the submissions made the writ petitions, are accordingly, dismissed as infructuous.
8. Interim orders, if any, stands vacated.
9. Copy of the circular dated 16.09.2020 is also kept with the case record.

**JUDGE**

**Comparing Assistant**