IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. No.1024 of 2026

Union of India & Ors.
Vs.
Mohd. Abdul Wadood

Before: **The Hon'ble Justice Arijit Banerjee**
&
The Hon'ble Justice Rishad Medora

For the Appellant: Mrs. Manju Agarwal, Senior Advocate
Mr. S. K. Ghosh, Advocate
Mr. Guddu Singh, Advocate

For the Respondents: Mr. Arabindo Chatterjee, Advocate
Mr. S. Roy, Advocate
Mr. K. Das Chakraborty, Advocate

Judgment reserved on: 25.08.2026

Judgment on: 25.11.2026

RISHAD MEDORA, J.:-

1. The appellants have filed the present appeal assailing a judgment and order dated March 17, 2026 passed by a Single Judge of this Court by which WPA No. 5361 of 2026 (Mohd. Abdul Wadood vs. Union of India) was disposed of. By the impugned judgment, a notice dated March 11, 2026 issued by the appellant no. 4 to the respondent, whereby a contract between the appellant no. 4 and the respondent for lease of a

parcel van was terminated, was quashed and set aside on the grounds of procedural impropriety and violation of natural justice.

Factual Background of the Appeal

2. Briefly, the appellants' case is that the South Eastern Railway ("SER") had floated a tender for lease agreement of a parcel van, having a carrying capacity of 24 Metric Tonnes ("MT"), attached with train no. 18045/18046 for a period of two years. The respondent participated in the aforesaid tender and was the successful bidder and consequently, the SER and the respondent entered into a lease agreement dated August 16, 2024 which was to be valid from September 4, 2024 to September 3, 2026.

3. In 2025, during the subsistence of the said lease agreement, the respondent had been found guilty of overloading the said parcel van on two separate occasions and punitive charges had been imposed on the respondent by the SER pursuant to and in compliance with a common order passed by this Court in two separate writ petitions filed by the respondent.

4. On February 17, 2026, the respondent booked a parcel van on train no. 18045 from Charlapalli Railway Station to Shalimar Railway Station and declared in its manifest that it had loaded 21,040 kg of goods in such parcel van. The SER did not carry out any weighment at Charlapalli due to non-availability of a weighbridge. Subsequently, weighment was done by the SER while the train was *en route* at Padmapukur and it was found by the SER that the said parcel van was overloaded by 1,330 kg. The SER imposed a punitive charge of

Rs. 32,019/- on the respondent vide its letter dated February 18, 2026 and the respondent was called upon to make such payment prior to taking delivery of the consignment.

5. Instead of paying the aforesaid punitive charge, the respondent requested a re-weighment by the SER of the said consignment. Such request was rejected. In view of the fact that the aforesaid act of overloading was a third instance of overloading by the respondent, the SER terminated the said lease agreement by a termination notice dated February 21, 2026 in terms of the said lease agreement read with Paragraph 14.3 of the Railway Board's Freight Marketing Circular (FMC) No. 12 of 2022.

6. The respondent filed WPA No. 4403 of 2026 before this Court seeking, inter alia, re-weighment of the said consignment and setting aside of the aforesaid letter dated February 18, 2026. Such writ petition was disposed of by an order dated February 23, 2026 which, inter alia, directed the SER to carry out a re-weighment of the said consignment by adopting an alternative mode of weighment upon payment of costs to be borne by the respondent.

7. The SER complied with the aforesaid order dated February 23, 2026 and a re-weighment of the said consignment was done by an Electronic In-Motion Weighbridge (EIMWB) at Andul. Such re-weighment indicated that the initial weighment done at Padmapukurwas on the higher side compared to the re-weighment done at Andul. A manual weighment was also conducted on February 27, 2026 at Shalimar, and the same revealed that the weight of the

said consignment was within the permissible carrying capacity and there had been no overloading.

8. Accordingly, vide its letter dated March 3, 2026, the SER called upon the respondent to submit an appeal for re-instatement of the aforesaid terminated lease agreement through IREPS policy in terms of the Railway Board's Freight Marketing Circular.

9. However, on March 5, 2026, a FIR was lodged at Shalimar / Government Railway Police by a customer of the respondent alleging that some of its packages were missing from the aforesaid consignment. The same fortified the SER's belief that some parts of the said consignment had been removed by the respondent from the said parcel van after the first weighment and before the re-weighments. The SER also came to learn that one door of the said parcel van had been kept key-locked by the respondent, and thus, according to the SER, the respondent had carried out unauthorised unloading prior to the said re-weighments. Further enquiries and evidence also revealed that the respondent had tampered with the contents of the parcel van prior to the re-weighments. In view of the same, by a letter dated March 11, 2026, the SER informed the respondent that it was keeping the aforesaid letter dated March 3, 2026 in abeyance and consequently, the aforesaid termination notice dated February 21, 2026 would continue to remain in force and prevail. In other words, the said contract between the SER and the respondent stood terminated once again.

10. Subsequently, the respondent filed WPA No. 5361 of 2026 before this Court and prayed for, inter alia, a writ in the nature of mandamus setting aside and/or quashing the aforesaid termination notice dated February 21, 2026. The said writ petition was allowed by the judgment impugned in this appeal.

Arguments on behalf of the Appellant

11. Learned Senior Advocate representing the appellants argued that the SER had complied with the aforesaid order dated February 23, 2026. She submitted that the SER has acted in accordance with the provisions of, inter alia, the Indian Railway Board Act, 1905, the Railways Act, 1989 and the relevant Freight Marketing Circulars.

12. It was strenuously argued that overloading is a very serious issue and the respondent had been found guilty of overloading on two prior occasions as well. Overloading could lead to accidents which would endanger human lives and also result in loss of valuable property. The Railways takes strict cognizance of such violations and no leniency should be shown to defaulters like the respondent.

13. It was further argued that prior to detection of overloading on February 18, 2026, the respondent had never raised any objection with regard to the functioning, calibration, certification or accuracy of the EIWMB at Padmapukur although such EIWMB had been used for weighing the parcel vans of the respondent on several occasions between February 3, 2026 and February 17, 2026.

14. The appellants contended that after overloading was detected for the third time, termination of the said contract by forfeiture of earnest

money and security deposit was automatic and there was no provision in the said contract between the parties herein and the relevant Freight Marketing Circular/s for issuance of a show cause notice prior to termination. Reliance was placed on Paragraph 14.3 of the Freight Marketing Circular No. 12 of 2022 and Clause 18 of the agreement between the SER and the respondent. It was thus submitted that there has been no procedural impropriety or violation of natural justice in the instant case.

15. It was also argued that the respondent deliberately did not take delivery of the said consignment by paying the aforesaid punitive charges and sought re-weighment repeatedly with the ulterior motive of avoiding punitive charges and contractual consequences arising out of repeated overloading violations.

16. It was further argued that serious irregularities were committed by the respondent after the first weighment and prior to the re-weighments and that there was unauthorised access to, interference and tampering with the said consignment by the respondent which materially affected the results of the subsequent re-weighments. Such developments led to the issuance of the said letter dated March 11, 2026, which was quashed by the impugned judgment.

17. It was lastly argued that the writ petition filed by the respondent was not maintainable and the respondent had alternative remedies in the form of arbitration as well as a departmental appeal. The appellants thus prayed for setting aside of the impugned judgment.

Arguments on behalf of the Respondent

18. Learned Advocate representing the respondent strongly opposed the submissions and arguments made on behalf of the appellants. He submitted that the termination of the contract between the SER and the respondent was founded upon the allegation of a third instance of overloading carried out by the respondent. However, pursuant to the aforesaid order dated February 23, 2026, the SER had conducted two re-weighments and had found that the consignment in question was well within the permissible carrying capacity. Accordingly, the SER had initiated the process of reinstatement of the said contract. Issuance of the aforesaid letter dated March 3, 2026 by the SER demonstrated that the SER had accepted that its initial allegation of overloading did not survive.

19. In so far as the allegations regarding alleged irregularities and alleged tampering with the said consignment are concerned, it was argued that the same are allegations which were levelled subsequent to the issuance of the issuance of the said termination notice dated February 21, 2026 and such allegations are baseless and have not been proved. Further, such allegations did not form part of the said termination notice, and consequently, the said termination cannot be sustained. The subsequent third-party complaint dated March 5, 2026 did not, and could not, form part of the original termination and the same cannot be relied upon by the respondent to presume guilt or to stop the respondent's business without a separate lawful determination.

20. It was further submitted that the aforesaid manifest which had been prepared by the respondent had been signed and stamped by the concerned Railway parcel staff, as contemplated under the provisions of the Freight Marketing Circular. Thus, there had never been any overloading by the respondent in the instant case and the same has been admitted by the SER.

21. Learned Advocate for the respondent stressed that the respondent's writ petition was maintainable and the so-called presence of an alternative remedy did not bar the reliefs sought by the respondent in the writ petition since the respondent's contention was that the decision-making process adopted by the SER was arbitrary, procedurally unfair and contrary to law.

22. It was also submitted on behalf of the respondent that Section 73 of the Railways Act, 1989 permits punitive charges only in those cases where actual overloading has been established and such section does not permit termination of a lease agreement.

23. It was lastly argued by the respondent that it is an admitted position that no show cause notice was issued prior to the issuance of the aforesaid notice dated March 11, 2026 and consequently, there has been a violation of the principles of natural justice as well as procedural impropriety. Accordingly, the respondent prayed for dismissal of the instant appeal.

The Impugned Judgment

24. By the impugned judgment, a Single Judge of this Court duly took into consideration the facts of the present case as well as the rival

contentions of the parties. The Learned Single Judge ultimately came to the conclusion that the order of termination was a consequential and procedural step arising from the initial weighment of the said consignment and upon conducting a re-weighment, the SER had found the said consignment to be within the permissible limit.

25. Accordingly, the Learned Single Judge found that the issuance of the aforesaid notice dated March 11, 2026 reflected arbitrariness and highhandedness on the part of the SER in keeping the order of reinstatement in abeyance.

26. The Learned Single Judge thus quashed the said termination notice dated March 11, 2026 on the grounds of procedural impropriety and violation of natural justice as the discrepancy in packages had not been addressed through a show cause process.

Analysis and Findings of the Court

27. This Court has heard the Learned Advocates representing the parties and has also considered the materials on record.

28. The primary facts of the instant case are not in dispute. Initially, upon carrying out a weighment of the respondent's consignment, it had been found by the SER that the respondent had overloaded the said parcel van. The same was assailed before this Court and this Court had directed a re-weighment on certain terms and conditions by an order dated February 23, 2026. Such order was not challenged by the SER, and has thus attained finality.

29. Subsequently, upon two separate re-weighments conducted by the SER itself, the consignment in question was found to be within the

permissible carrying limits. Consequently, the SER wrote the aforesaid letter dated March 3, 2026 whereby it accepted that the respondent's termination was not sustainable and directed the respondent to take certain measures for reinstatement of its lease agreement with the SER.

30. The matter took a twist when the SER subsequently came to know that a FIR/complaint had been lodged by a customer of the respondent alleging that some of its packages which were being carried by the respondent in the said consignment were missing. The SER also came to know of various irregularities committed by the respondent, including alleged unauthorised and surreptitious removal of packages from the said consignment, subsequent to the initial weighment and prior to the re-weighments. The SER thus believed that such unlawful removal of packages led to the SER finding the said consignment to be within the permissible carrying limits while carrying out the subsequent two re-weighments.

31. The SER relied on the aforesaid subsequent events and by its letter dated March 11, 2026 addressed to the respondent, it kept the aforesaid letter dated March 3, 2026, in abeyance, and revived the aforesaid termination notice dated February 21, 2026.

32. Termination of the contract between the SER and the respondent is possible in the following circumstances under the provisions of the relevant Freight Marketing Circulars:

    a) Paragraph 28.2 of the Freight Marketing Circular No. 11 of 2022 gives the Railway authority the right to terminate the

contract/agreement for any reason whatsoever after serving 30 days' notice to the lease holder and Clause 28.2.1 of the aforesaid circular states that in case of extreme operational exigency, the Railway authority may terminate the contract/agreement with immediate effect, without any final repercussions on either side, with the approval of DRM/concerned PHOD/CHOD.

b) Paragraph 28.3 of the Freight Marketing Circular No. 11 of 2022 empowers the Railway authority to terminate the contract as a punitive measure without any notice, and at any time, in case of serious violation of the agreement by the contractor, or an illegal activity, or any action against Good Industry Practices.

c) Paragraph 14.3 of the Freight Marketing Circular No. 12 of 2022 states that if overloading (more than the permissible tolerance limit – i.e. 1 Tonne in case of Parcel Vans, and 5% of the permissible carrying capacity in case of SLR compartments) is detected on more than two occasions in any one contract, the contract shall be terminated with forfeiture of Security Deposit. It further clarifies that the contract will be terminated in case of detection of third overloading beyond the prescribed tolerance limit.

33. The SER has issued two letters to the respondent in so far as termination of the contract between them are concerned. These are the two aforesaid letters dated February 21, 2026 and March 11, 2026. These letters thus, obviously, have to be read conjunctively. It is

evident from the language of such letters that the SER terminated the contract by relying on the aforesaid Paragraph 14.3 of the Freight Marketing Circular No. 12 of 2022. To put it simply, the only ground on which the said contract has been terminated is that three instances of overloading beyond the permissible tolerance limit have occurred during the subsistence of the said contract. The SER has neither relied on Paragraph 28.2 of the Freight Marketing Circular No. 11 of 2022 nor has it relied on Paragraph 28.3 of the Freight Marketing Circular No. 11 of 2022 for the purposes of terminating the said contract. Accordingly, this Court is only concerned with examining the SER's actions regarding terminating the respondent's contract apropos Paragraph 14.3 of the Freight Marketing Circular No. 12 of 2022.

34. Undoubtedly, there have been two instances of overloading beyond the permissible tolerance limit in the past. However, in so far as the SER's allegation regarding the third instance of overloading is concerned, the SER itself found, through two separate re-weighments, that there had been no overloading. The SER's contention that the respondent's alleged irregularities led to the finding that the said consignment was within the permissible tolerance limit is neither conclusive nor has it achieved finality. The same is yet to be proved. More importantly, the respondent ought to have been given an opportunity to present its case and/or rebut the SER's allegations. Such opportunity was not given. The said contract stood terminated, once again, by the issuance of the aforesaid letter dated March 11, 2026.

35. Although Paragraph 14.3 of the Freight Marketing Circular No. 12 of 2022 as well as the contract between the parties do not specifically require the SER to issue a show cause notice prior to terminating the contract, it is trite law that a show cause notice must be issued by the State or a public authority prior to it taking any action which would have civil consequences for a citizen. The principles of natural justice, and in particular, the rule of *audi alteram partem*, necessitates the same. The State must always act fairly and keeping the same in mind, it would only have been fair on the part of the SER to issue a show cause notice to the respondent prior to terminating the said contract so that the respondent would have got an opportunity to deal with the allegations levelled against it and make appropriate submissions in respect thereof. Such failure on the part of the SER resulted in manifest arbitrariness and unfairness on the part of the SER to the prejudice of the respondent.

36. The arbitrary and unreasonable actions of the State are always open to judicial scrutiny and consequently, this Court does not have an iota of doubt that the writ petition was maintainable. There can be no dispute with the proposition that the presence of an alternate remedy is not an absolute bar to a writ petition being entertained, particularly when the impugned action/decision has been taken in breach of the principles of natural justice.

37. The procedure/process adopted and followed by the SER in terminating the respondent's contract was wholly improper. This Court is in agreement with the Learned Single Judge that there were

procedural improprieties and/or lapses in the manner in which the SER has conducted itself while terminating the respondent's contract. Such action is not sustainable in law.

38. As a result, this Court finds no infirmity or perversity with the impugned judgment and order dated March 17, 2026 passed by the Learned Single Judge in W.P.A. No. 5361 of 2026 and the same is consequently hereby affirmed.

39. MAT No. 1024 of 2026 is thus dismissed. All applications pending in the said appeal accordingly stand disposed of. Interim orders, if any, in the said appeal stand vacated. There will be no order as to costs.

40. Urgent Photostat certified copy of this judgment and order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree.

(Arijit Banerjee, J.) **(Rishad Medora, J.)**