

SC upholds decision barring toll collection on DND flyway

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NEW DELHI: The Supreme Court on Friday upheld a decision barring the collection of toll charges on the Delhi-Noida Direct (DND) flyway, and reprimanded the Noida authority for enabling a toll company to “defraud” and “exploit” commuters indefinitely through an arbitrarily drafted agreement.

A bench comprising justices Surya Kant and Ujjal Bhuyan affirmed the 2016 judgment of the Allahabad high court, which directed the Noida Toll Bridge Company Ltd (NTBCL) to cease toll collection from vehicles using the DND flyway, which connects Delhi with Noida.

“...no person or entity can be allowed to make an undue and unjust profit from public property, at the cost of the public at large,” said the bench, coming down hard on the lapses in governance and financial improprieties in the flyway project.

The Supreme Court found that NTBCL had already recovered both the cost of constructing the flyway and a reasonable profit since the expressway opened in 2001.

“Since NTBCL has recovered the costs of the project and substantial profits thereon by virtue of imposition of user fees/tolls and given the existing position of law, we find no error in the high court’s judgment and its directions in restraining the imposition and collection of user fees/tolls...There is no rhyme or reason for the collection of user fees/tolls to continue,” stated the judgment authored by justice Kant.

The court observed that the indefinite continuation of toll collection was “rooted in the deliberately crafted language of the concession agreement” and constituted a breach of public trust.

Apex court’s strong statements

The top court reprimanded the Noida Authority for enabling a toll company to “defraud” commuters indefinitely

What SC said

The selection of NTBCL to execute the contract was not transparent.

Indefinite continuation of toll collection was ‘rooted in deliberately crafted language’ of the agreement between Noida authority and NTBCL.

There was ‘blatant misuse of power and breach of public trust’ in the deal

NTBCL and Noida both ‘indulged in trickery’ and introduced regulations as an ‘afterthought’

Timeline

January 1999
Construction on DND begins

February 7, 2001
Flyway opens

November 2016
Toll removed on court orders

₹28
last toll collected (car)

9.2km
Total length

13,000
estimated vehicular traffic on DND in 2001

250,000
estimated vehicular traffic on DND in 2018*



*Latest survey; All data collected by NTBCL

The judgment also pointed to collusion between NTBCL, government officials, and the Noida authority, enabling misuse of public funds.

“The public has been forced to part with hundreds of crores by IL&FS and NTBCL, under the guise of providing necessary public infrastructure... The facts speak for themselves,” the court remarked.

It further suggested that the Prevention of Corruption Act could have been invoked had it not been for the long passage of time, holding: “This blatant misuse of power and breach of public trust has profoundly shocked the conscience of this court.”

Scrutinising the financial arrangement under the concession agreement, particularly the

formula used to calculate the total project cost, the court endorsed findings from the Comptroller and Auditor General (CAG) report, which highlighted serious lapses, including inflated project costs and an assured return rate of 20%, far above market rates.

‘Public defrauded’

“An exhaustive reading of the CAG report highlights the extent to which the public has been defrauded,” stated the judgment, adding that very selection of NTBCL to execute the contract was not transparent and violated constitutional principles. “The contention by NTBCL that there were no suitable companies capable of undertaking such infrastructural development dur-

ing that period lacks any substantiation or material on record to support such sweeping claims,” the judgment stated.

Criticising the Noida authority, the bench noted that the agreement with NTBCL lacked a defined time frame for toll collection, effectively allowing the concessionaire to charge users perpetually.

The court further held that the Noida authority exceeded its statutory powers by delegating the ability to levy and revise toll fees to NTBCL under the agreement.

“Noida overstepped its authority by delegating the power to levy fees to NTBCL through the concession agreement and regulations, exceeding the scope of its powers... The responsibility to determine the amount and rate

of fees lies with Noida; by delegating this function to NTBCL via the concession agreement and reinforcing it through the regulations, Noida exceeded its authority moored under the Uttar Pradesh Industrial Area Development Act.”

The court held this delegation of power as a clear violation of the statute and concluded that “NTBCL and Noida have indulged in trickery,” introducing regulations as an “afterthought” to justify actions that were not permissible under law.

The court also validated the public interest litigation (PIL) filed in 2012 by the Federation of Noida Residents’ Welfare Associations, which challenged the “levy and collection of toll in the name of user fee” by NTBCL. The bench concluded that the PIL was legally sound and rightly adjudicated by the high court.

The DND flyway, operational since 2001, significantly reduced travel time between Delhi and Noida, easing traffic congestion in the region. Prior to the high court judgment, commuters were charged ₹28 per trip or ₹56 for a round trip for using the expressway, which was touted as a smoother and faster route within the Delhi-NCR region.

The Noida authority welcomed the order.

“[The order] will benefit the thousands of commuters who daily use this stretch. Now the commuters can use the DND smoothly without paying any toll in future as SC has settled this issue,” said Lokesh M, chief executive officer of the Noida authority.

Gautam Budh Nagar District Development Residents Welfare Association president NP Singh, who filed the Allahabad high court plea in the matter, said: “We are extremely happy that today the Supreme Court has taken a decision in favour of DND users... We welcome the order.”