IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,

ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 15th OF JULY, 2026

WRIT PETITION No. 19648 of 2025

M/S DEWAS BHOPAL CORRIDOR PRIVATE LIMITED

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Rajiv Shakdhar, learned Senior Advocate, appeared along with Shivani Karmakar, learned counsel, Abhijeet Swaroop, learned counsel, Akshay Sapre, learned counsel & Karan, learned counsel appeared for the petitioner.

Shri Prashant Singh, learned Advocate General, along with Anvesh Shrivastava, learned counsel for Respondent No.1& 2,

Shri Yatin N. Oza, Senior Advocate along with Pramod C. Nair, Vishwas Shah, Aashvi Shah, Kashish Lalwani, Rajni Bhargav, learned counsel for the respondent No.3.

Reserved on: 17.06.2026

Delivered on : 15.07.2026

***Per*. Vivek Rusia, Acting Chief Justice**

The present petition has been filed under Article 226 of the Constitution of India challenging the order dated 21.05.2025 (Annexure P-14) passed by the Respondent No.2, Madhya Pradesh Road Development Corporation (MPRDC), whereby the petitioner has been directed to refund the alleged excess toll collected from the Respondent No.3 with retrospective effect from the year 2022 along with damages at the rate of 25%.

FACTS OF THE CASE:

2. The brief facts of the case, in short, are that the petitioner, M/s Dewas Bhopal Corridor Private Limited, is a company incorporated on 14.12.2007 under the provisions of the Companies Act, 1956, for execution of the Concession Agreement dated 30.06.2007 (Annexure P-1) entered into with Respondent No.2, Madhya Pradesh Road Development Corporation (MPRDC), for four-lane, operation and maintenance of the Bhopal-Dewas Road on a Build-Operate-Transfer (BOT) basis. Under the Concession Agreement, the petitioner was authorised to levy and collect toll fee from users of the project highway strictly in accordance with the Fee Notification and subsequent revisions thereof by the MPRDC. The toll rates and categories of vehicles were prescribed by the Respondent No.2 and the same were binding upon the petitioner.

3. Notably, initially, the toll collection was undertaken manually at the toll plazas, wherein vehicles were classified by the MPRDC, made known to the toll personnel to collect toll fee according to the applicable category. During this period, buses were charged under the category of "Empty/Loaded Bus". The MPRDC used to prescribed different Toll-Fee for different categories of vehicles passing through the said road in question.

4. In furtherance of the National Electronic Toll Collection (NETC) Programme introduced by the Government of India, the Respondent No.2 executed a Memorandum of Understanding (MOU) with the Indian Highways Management Company Limited (IHMCL) on 25.02.2020 vide Annexure P-3 for implementation of the **FASTag system** on all toll plazas of MPRDC. A supplementary MOU was executed between the same parties on 18.05.2023 to

extend the period of the MOU vide Supplementary MOU (Annexure P-4).

5. Thereafter, a letter dated 05.03.2020 (Annexure P-5) was sent to the Petitioner by the Respondent No. 2, informing that the Project Highway had been included under the NETC Programme. Pursuant thereto, the Petitioner upgraded its toll infrastructure and adopted the FASTag-based electronic toll collection system. Under the NETC mechanism, vehicle classification is undertaken by IHMCL in accordance with the guidelines issued by the Ministry of Road Transport and Highways (MoRTH), based upon parameters such as gross vehicle weight and number of axles. On 24.05.2023, the Respondent No.2 again wrote a letter (Annexure P-7) to the Petitioner instructing it to ensure implementation and smooth functioning of the toll plaza as per new guidelines of IHMCL in totality.

6. After adopting the NETC Programme, the Respondent No. 2 also took steps to rename the categories. Pursuant to which, three-axle buses were issued FASTags and classified by IHMCL as "Multi-Axle Vehicles". Consequently, whenever such buses crossed the toll plazas on the project highway, toll charges applicable to the category "Multi-Axle Vehicle" were automatically deducted through the FASTag system.

7. The controversy arose when Respondent No.3, a public transport operator, which operates buses on the project highway, raised a grievance regarding such classification and sought treatment of its buses under the category of "Empty/Loaded Bus". After certain correspondence, the Respondent No.3 filed W.P. No. 28800 of 2024 (Annexure P-9) before the Indore Bench of this Court. The said petition was disposed of on 30.09.2024 with a liberty to the Respondent No.3 to submit a fresh representation before the competent authority of the MPRDC. In compliance of the aforesaid order, the Respondent No.3 submitted a representation dated 17.10.2024 (Annexure P-10) before the Respondent No.2

seeking refund of the alleged excess toll collected from its buses on account of their classification as Multi-Axle Vehicles.

8. The representation was forwarded to the petitioner for comments/reply. The petitioner submitted a detailed reply (Annexure P-12) contending that classification of vehicles under the FASTag regime was carried out by IHMCL/MoRTH and that the petitioner had merely collected toll fee through the automated system in accordance with the classification assigned and the rates prescribed by the Respondent No.2.

9. Thereafter, a letter dated 27.01.2025(Annexure P-13) was sent by the respondent no. 2 to the Petitioner and Respondent No. 3, scheduling a meeting on 29.01.2025, and calling upon both the parties to remain present alongwith the relevant documents, but the Respondent No. 3 failed to appear in the said meeting, Thereafter, the impugned order dated 21.05.2025(Annexure- P14) was passed by Respondent No.2 whereby the petitioner was directed to refund the alleged excess toll collected from the Respondent No.3 with retrospective effect from the year 2022 along with damages at the rate of 25% . Aggrieved with the said impugned order, the petitioner has approached this Court by filing the present petition.

SUBMISSIONS ON BEHALF OF PETITIONER:

10. Shri Rajiv Shakdhar, learned Senior Advocate for the petitioner, argued that the subject buses owned by respondent no.3 admittedly possess three axles and were issued FASTags under the “Multi-Axle Vehicle” category by the competent agencies after verification of the vehicle particulars. The toll deductions were automatically made by the NETC system on the basis of such classification. Suffice it to say that petitioner is only responsible for collection of toll fees according to the applicable fee notification as the petitioner is merely a

concessionaire under the Concession Agreement and; therefore the impugned order has been passed by the respondent No.2 in mechanical manner and without application of mind and the same deserves to be set aside.

11. Shri Rajiv Shakdhar, learned Senior Advocate further submitted that after adoption of the National Electronic Toll Collection (NETC) system by Respondent No.2, vehicle classification became an automated process governed by the guidelines issued by the Ministry of Road Transport and Highways (MoRTH) and implemented through the Indian Highways Management Company Limited (IHMCL) whereby the vehicles of Respondent No.3 was classified as "Multi-Axle Vehicles" by the competent authorities under the FASTag regime pursuant to which toll was automatically deducted on the basis of such classification. Therefore, the petitioner cannot be held responsible for any alleged erroneous classification.

12. Shri Rajiv Shakdhar learned Senior Advocate further argued that the Respondent No. 2 has usurped a jurisdiction not vested in it by adjudicating upon issues relating to vehicle classification, which fall exclusively within the domain of IHMCL and MoRTH. Instead of referring the grievance of Respondent No. 3 to the competent authority, the Respondent No. 2 has proceeded against the petitioner and directed refund of toll amounts so collected over several years.

13. Shri Rajiv Shakdhar, learned Senior Advocate further argued that the direction to refund toll along with damages at the rate of 25% is wholly unsustainable in law as the toll has been collected by the petitioner in accordance with the Tag Class by complying with the provisions of the Concession Agreement and the instructions issued by the respondent No.2 from time to time, Thus, there is no breach on the part of the petitioner so far as collection of toll is concerned.

14. Shri Rajiv Shakdhar, learned Senior Advocate lastly submitted that there is no loss caused to the respondent No.2 as the toll was collected according to the vehicle classification implemented by the respondent No.2 and therefore in absence of any material to establish loss, the impugned order directing levy of damages and refund of excess toll amount, runs contrary to the law laid down by the Supreme Court in the cases of ***Kailash Nath Associates vs. DDA***, (2015) 4 SCC 136 and ***Union of India vs. Raman Iron Foundry***, (1974) 2 SCC 231.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO.2:

15. *Per contra*, Shri Prashant Singh, learned Advocate General, submitted that the Concession Agreement governs the rights and obligations of the parties and expressly mandates that toll fees shall be collected only in accordance with the categories and rates specified under the applicable fee notification. The petitioner, being a concessionaire under the Agreement, is bound by its contractual obligations and cannot justify collection of toll under a category not expressly contemplated by the governing contractual framework. Therefore, the petitioner has fundamentally violated the strict boundary of the Agreement.

16. Shri Prashant Singh, learned Advocate General, also submitted that implementation of the FASTag system was intended only to facilitate electronic collection of toll and did not authorise alteration of the toll structure or vehicle categories applicable under the Concession Agreement. The petitioner was therefore bound to ensure that toll collection remained in conformity with the contractual provisions irrespective of the technological platform employed. The petitioner, just to deflect from deliberate action of overcharging road users for its own commercial gain, has attempted to shift the blame to FASTag entities and central guidelines.

17. Learned Advocate General further submitted that Respondent No. 3 brought to the notice of Respondent No. 2 that buses, which were historically charged under the category of “Loaded/Empty Buses”, were being subjected to higher toll under the category of “Multi-Axle Vehicle”, resulting in excess collection. And he further submitted that this entry at the toll plaza is done by the computer operator/system provider/IT engineer who is under the control of the concessionaire. Therefore,

intentional misclassifications were carried out to generate illicit financial premiums at the expense of public transport services.

18. It was further submitted that the petitioner has not availed of the efficacious remedy as per the Concession Agreement and the impugned order was passed after giving opportunity of hearing to the petitioner, therefore, the order is just and proper. Thus, the Writ petition is not maintainable as no rights of the petitioner have been infringed.

SUBMISSIONS ON BEHALF OF RESPONDENT NO. 3:

19. Shri Yatin N. Oza, learned Senior Advocate appearing for the Respondent No. 3 submitted that the impugned order was passed after granting due opportunity of hearing and upon a detailed examination of the Concession Agreement. The petitioner had wrongly categorized the Respondent No.3's three-axle buses as "Multi Axle Trucks" instead of "Empty/Loaded Buses" and consequently collected the excess toll from April, 2022 onwards. The incorrect mapping was done by the petitioner itself and not by the authorities.

20. Shri Yatin N. Oza, learned Senior Advocate also submits that the writ petition is not maintainable in view of the alternative dispute resolution mechanism provided under Clause 33 of the Concession Agreement. It is submitted that the dispute involves contractual obligations and disputed questions of fact, which cannot be adjudicated under writ jurisdiction.

21. Shri Yatin N. Oza, learned Senior Advocate further contended that the classification adopted under the FASTag system resulted in discriminatory and excessive toll collection from the Respondent No. 3. Therefore, repeated representations were made seeking correction of the anomaly and for refund of excess amount collected. Respondent No. 2, after examining the matter, rightly directed for refund of the excess toll recovered.

22. Shri Yatin N. Oza, learned Senior Advocate also argued that the Concession Agreement specifically provides a separate category for buses and does not permit levy of toll applicable to multi-axle trucks. The clarification issued by the MPRDC on 30.05.2025 merely corrected a typographical error and reaffirmed that the

applicable category is "Multi Axle Truck" and not "Multi Axle Vehicle". The impugned directions only restore the correct contractual position and require refund of excess toll illegally collected by the petitioner.

23. Shri Yatin N. Oza, learned Senior Advocate contended that the impugned order neither alters the contractual framework nor imposes any new liability, but merely restores the position which ought to have prevailed under the applicable toll notification. It was therefore prayed that the writ petition be dismissed and the interim protection granted in favour of the petitioner also deserves to be vacated.

24. Heard the learned counsel for the parties and perused the record.

25. The petitioner and respondents had entered into a concessional agreement for designing, engineering, financing, procurement, construction, operation and maintenance of the Project Highway of Bhopal-Dewas road (hereinafter referred to as the "Project") on 30.6.2007. In view of Clause 1.46 read with Clause 6.1 of the Agreement, the toll rates were prescribed for Schedule-C, as per notification issued by the MPPWD dated 30.12.2006, which read as under:-

S.No.	Classification of Vehicles	Toll Rate (Rs.per Km)
1.	Private Car, Jeep	0.33
2.	LCV	0.79
3.	Empty and loaded bus	1.64
4.	Empty or Loaded Truck	1.97
5.	Multi-Axle Truck	3.93

26. It is clear that parties agreed that the rate of toll will be decided by the MPPWD by issuing notifications from time to time. Clause 6.9.3 of the Agreement specifically prohibits the petitioner from revising, displaying or collecting any amount in excess of the rates of fee payable under the Fee Notification. There is a provision for refund of excess amount with damages at the rate of 25%. Clause 1.46 and Clause 6.9.3 of the Agreement, being relevant are reproduced hereinbelow:-

> *"1.46 "Fee Notification" means the Notification No F-23-12/2006/G/19 dated 30.12.2006 issued by GoMP in exercise of the powers conferred by Section 2 of The Indian Tolls. (Madhya Pradesh Amendment) Act, 1932 in respect of the levy and collection of the Fees and a copy of which is at*

Schedule "C" and includes any such subsequent notifications issued from time to time to give effect to the provisions of this Agreement.

xxxx xxxx xxx

6.9.3" The Concessionaire shall not revise display or collect any amounts in excess of the rates of fee payable under the fee notification. In the event any excess amounts are collected by or on behalf of the Concessionaire, it shall, upon receiving a notice of this effect from the MPRDC, refund such excess amounts to the MPRDC along with Damages equal to 25% (Twenty five percent} thereof. Besides this, in case of repeated instances of such nature, MPRDC. will be lawful in taking action for termination of agreement under clause 29.3.4, as this will form major breach of the terms of the agreement."

27. Thereafter, the M.P. PWD (now MPRDC) revised the toll rates by issuing a notification each year specifically classifying the Car, Jeep, LCV, Empty and loaded bus, empty or loaded truck, multi-axle truck, etc. Therefore, the petitioner and respondents are governed by the terms and conditions of a contract, under which the MPRDC has been authorised to prescribe the rates for the purpose of collecting toll. The sole contention of the petitioner is that in the year 2013 the Government of India implemented the NETC Programme/FASTags regime in respect to automate toll collection. Under the said programme, in 2018, NHAI specified the vehicles and issued FASTags through its implementing body, IHMCL. The vehicle classification was also formulated by IHMCL, providing for the classification of all vehicles based on two parameters, viz., gross weight and number of axles. According to the said classification, the 3-Axle Buses fell under Tag Class-6 and the respondent No.3 is admittedly plying Buses of 3 axle only; therefore, they fall under Tag Class-6 and Mapper Class-8. Likewise, the Bus with 2 axles and gross weight between 12000 Kg. to 16200 Kg. having distinct tag and mapper class. Hence, the petitioner is bound to follow the said classification issued by the Government of India while implementing NETC Programme/FASTag.

28. Shri Shakhdar, learned senior counsel also argued that respondent No.2

vide letter dated 05.3.2020, issued instructions to begin the process for FASTag by enclosing other relevant IHMCL documents. Accordingly, the petitioner supported the implementation of FASTag devices on the toll situated on the road in question. Hence, the allegation of breach by the petitioner and direction to refund are unsustainable in law. It is also submitted by learned senior counsel that the petitioner had no role to play in this toll collection. The vehicle classification is done in an automated manner by Automated Vehicle Classifier (AVC) in the NETC system to identify the class of vehicle considering its gross weight and axle count. It is also contended that in the year 2020, the respondent No.2 executed MOU with IHMCL and adopted the FASTag regime with its vehicle classification system. Hence, toll collection by the respondent No.3 buses was based on the vehicle classification regime implemented by the respondent No.2. It is also submitted that under clause 6.10.3 of the Agreement, the respondent No.2 also received a share in revenue and benefitted from the new classification. Hence, the petitioner cannot be held guilty of alleged misclassification of vehicles and alleged charges of excess toll. Hence, the impugned order suffers from arbitrariness and the same is violative of Articles 14, 19 & 21 of the Constitution.

29. We are not impressed by the above submissions as the implementation of the FASTag system is nothing but a shifting of the collection of toll amount manually to an automated system. The petitioner was required to install the FASTag to collect the toll as per the terms and conditions of the concession agreement dated 30.6.2007. The rate and classification were liable to be set in the FASTag system or programme by way of setting the programme to collect toll as per the agreement. **Technology should be adopted as a Facilitator, Not a Modifier.** The transition from physical booths to RFID-based automation (FASTag) is merely a change in the *mode* of collection, not the *measure* of the liability. The program configuration must comply with the agreed-upon schedules. The rate structure, classification of vehicles, and escalation clauses (if any) are governed entirely by the terms signed on June 30, 2007; any deviation or error in the software programming that collects a higher or different toll amount is treated as a breach of the agreement. It is the duty of the executing authority or concessionaire to ensure that the backend software is accurately coded to reflect the contractually mandated rates,

preventing unjust enrichment or unauthorised collection. The **Legal Maxim:** *Conventio vincit legem* (The agreement of the parties overcomes the law)— in this context, the specific terms of the concession agreement govern the financial relationship, and the automated system is merely an agent to execute those specific terms. The petitioner configured the FASTag program in a way that creates a mismatch between the actual collections and the 2007 agreement.

30. The State Notification No.F-23-12/2006/G/19 dated 30.12.2006 (Schedule-C) lists only 5 specific tariff brackets. The Hindi version details the category as Multi Axle Truck Trailer, which was a specific category for Truck and Trailer, in which buses were included in different counts. According to the respondent No.2 the misunderstanding of the petitioner was clarified in the pre-bid meeting itself. Item No.62 of the Pre-bid Clarification matrix reads as under:-

"Query 62: "The category of Multi Axle should be clarified as Truck-2 Axle as done by NHAI for BOT project.

MPRDC Answer: "It is clarified that all trucks having more than two axles shall be treated as multi axle vehicle"

31. Therefore, before signing the contract, the petitioner had an absolute and clear understanding that Multi Axle Vehicle on this specific route, referred to trucks with more than two axles. Clause 6.7 of the agreement which is specifically inserted in the agreement provides that the concessionaire shall be solely liable and responsible for the collection of fees in accordance with the agreement and its deposit into the Escrow Account. Therefore, the petitioner cannot take a defence with reliance on the Central MoRTH notification dated 15/5/2018 that toll was recoverable as classified therein. The petitioner unilaterally cannot change the tariff without prior consent and permission from the respondent No.2 and even cannot authorise to do changes. The respondent No.2 kept on revising the toll rates from time to time. Vide letter dated 20.3.2024, revised rates were applicable w.e.f. 01.4.2024, which are as under:-

"REVISED TOLL RATES APPLICABLE W.E.F. 01.04.2024 TO 31.03.2025 FOR BHOPAL — DEWAS ROAD

First Homogeneous Section (31.60 Km)

S.No.	Type of Vehicles	Toll Rate per trip basis
1.	Car/Jeep	Rs.35.00
2.	Light commercial Vehicle	Rs.84.00
3.	Loaded/Empty Bus	Rs.175.00
4.	Loaded/Empty Truck	Rs.210.00
5.	Multi Axle Vehicle	Rs.420.00

Second Homogeneous Section (40.00 Km)

S.No.	Type of Vehicles	Toll Rate per trip basis
1.	Car/Jeep	Rs.45.00
2.	Light commercial Vehicle	Rs.107.00
3.	Loaded/Empty Bus	Rs.222.00
4.	Loaded/Empty Truck	Rs.266.00
5.	Multi Axle Vehicle	Rs.531.00

Third Homogeneous Section (69.19 Km)

S.No.	Type of Vehicles	Toll Rate per trip basis
1.	Car/Jeep	Rs.77.00
2.	Light commercial Vehicle	Rs.185.00
3.	Loaded/Empty Bus	Rs.384.00
4.	Loaded/Empty Truck	Rs.461.00
5.	Multi Axle Vehicle	Rs.919.00

32. Thereafter, vide letter dated 25.2.2025 as per concession agreement, the MPRDC, Bhopal revised roll rates with effect from 01.4.2025 to 31.3.2026. The same are as under:-

"REVISED TOLL RATES APPLICABLE W.E.F. 01.04.2025 TO 31.03.2026 FOR BHOPAL ~ DEWAS ROAD

First Homogeneous Section (31.60 Km)

S.No.	Type of Vehicles	Toll Rate per trip basis

1.	Car/Jeep	Rs.38.00
2.	Light commercial Vehicle	Rs.90.00
3.	Loaded/Empty Bus	Rs.187.00
4.	Loaded/Empty Truck	Rs.225.00
5.	Multi Axle Vehicle	Rs.449.00

Second Homogeneous Section (40.00 Km)

S.No.	Type of Vehicles	Toll Rate per trip basis
1.	Car/Jeep	Rs.48.00
2.	Light commercial Vehicle	Rs.114.00
3.	Loaded/Empty Bus	Rs.237.00
4.	Loaded/Empty Truck	Rs.285.00
5.	Multi Axle Vehicle	Rs.569.00

Third. Homogeneous Section (69.19 Km)

S.No.	Type of Vehicles	Toll Rate per trip basis
1.	Car/Jeep	Rs.83.00
2.	Light commercial Vehicle	Rs.198.00
3.	Loaded/Empty Bus	Rs.410.00
4.	Loaded/Empty Truck	Rs.493.00
5.	Multi Axle Vehicle	Rs.983.00

33. Therefore, there has been no change in the types of vehicle from the date of execution of the Agreement till today. The Multi Axle Vehicle is at Sr.No.5 and it has always been treated as a Multi Axle Truck and for Loaded/Empty Bus there is only one rate further sub-classification based on number of axles. Vide letter dated 30.5.2025, the Chief Engineer (BOT) has issued clarification that in the letter dated 25.2.2025 the "Multi Axle Vehicle" be read as "Multi Axle Truck", for each toll plaza; therefore, it can safely be held that petitioner has wrongly collected the tax from the respondent No.3 and treated it as

a Multi Axle Bus. The petitioner is bound by the agreement and tariff notifications issued by the MPRDC from time to time. The petitioner is legally bound to charge as per the category enumerated in the agreement by feeding in their FASTag system. As per the notification dated 30.12.2006, the description of vehicle of respondent No.3 comes under Sr.No.3 as empty and loaded bus, and not under Sr.No.5 as multi axle truck. Due to the wrong mapping done by the petitioner manually from April, 2022 the toll was collected. The respondent No.3 came to know about collection of higher tax from April, 2022 from the Bank account and then it submitted an objection. During the aforesaid period, the petitioner has collected the amount of more than Rs.11 crores. As discussed above, the FASTag system is only a change of method of collection from manual to electronic, as in our High Court of M.P. and our courts we have shifted from physically filing to e-filing. The deposit of court fee/process fee from physical to e-filing; such transformation does not affect the rate of court fee payable by the litigant. In e-filing system neither the State Government nor the High Court has changed the rate of court fee payable in physical mode. Therefore, the petitioner has been taking a wrong stand that due to implementation of FASTag system, authorisation has been given to collect the toll at higher rates.

34. Therefore, we do not find any error in the impugned action of the respondents. The writ petition is dismissed. The amount so recovered from the petitioner is liable to be returned not only to respondent No.3 but to all other vehicle transporters. Let the amount be ascertained by way of either conciliation or by way of an arbitration between the parties. If the MPRDC has received any share during said period, that share is also liable to be refunded to the respondent No.3 and other Transporters.

35. In view of the arbitration clause in the agreement, let proceeding of conciliation or arbitration be initiated to ascertain the excess amount of toll illegally recovered by the petitioner for refund not only to the respondent no.3 but to all others who have paid to the petitioner under the FASTag system.

36. The writ petition is dismissed with the cost of Rs 25,000.00 (Rupees Twenty Five Thousand only) to be deposited in the Chief Minister Relief Fund, Madhya Pradesh.

(VIVEK RUSIA)	(PRADEEP MITTAL)
ACTING CHIEF JUSTICE	JUDGE

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