

GAHC010179752024



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

Case No. : WP(C)/4457/2024

SASHANKA BRAHMA
S/O- LATE UTTAM CH. BRAHMA, R/O- VILL- DAHALAPARA, P.O.
KHAGRABARI, P.S. KAJALGAON, DIST.- CHIRANG (BTAD), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, TRANSPORT DEPARTMENT, GOVT. OF ASSAM,
DISPUR, GUWAHATI- 781006

2:THE REGIONAL TRANSPORT OFFICER
BETKUCHI
GUWAHATI- 781034
DIST.- KAMRUP (M)
ASSAM

3:NATIONAL INSURANCE COMPANY
REPRESENTED BY ITS AUTHORISED SIGNATORY
DIVISIONAL IN-CHARGE
GUWAHATI REGIONAL OFFICE
G.S.ROAD
BHANGAGARH
GUWAHATI- 78100

Advocate for the Petitioner : MR S BORTHAKUR, MS. P BORAH

Advocate for the Respondent : SC, TRANSPORT DEPARTMENT, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

06-09-2024

Heard Shri S. Borthakur, learned counsel for the petitioner. Also heard Ms. M. D. Borah, learned Standing Counsel, Transport Department.

Considering the subject matter in dispute and as agreed to by the learned counsel for the parties, the writ petition is taken up for disposal at the motion stage.

The instant petition has been filed with the grievance that the Regional Transport Officer, Kamrup (M) has not taken any steps for cancellation of the Registration Certificate of the vehicle of the petitioner. It is projected that a vehicle (HYUNDAI CRETA) bearing Registration No. AS-01 EA-6935 owned by the petitioner had fallen into a canal on 20.07.2023 and was severely damaged. The matter was enquired by the Insurance Company and the IRDAI had issued a report regarding the permanent damage of the vehicle in question and the Insurance Company had also issued a letter to the RTO for cancellation of the registration.

Shri Borthakur, the learned counsel has submitted that the requirement of Section 55 of the ***Motor Vehicles Act, 1988*** is substantially complied with as the report has already been forwarded by the Insurance Company.

Ms. Borah, the learned Standing Counsel has however submitted that under Section 55, there is a requirement and obligation on the part of the owner to report the fact to the Registering Authority regarding the damage of the vehicle or that it has been rendered permanently incapable of use. In this regard, the learned Standing Counsel has placed before this Court written

instructions with a forwarding letter dated 31.08.2024 as per which it transpires that the petitioner owner has not fulfilled his part of the obligation under Section 55. The learned Standing Counsel has also informed that the communication alleged to have been sent by the Insurance Company has not been received till now.

Considering the facts and circumstances and the respective contentions, this Court is of the opinion that interest of justice would be served by directing the petitioner to submit an application reporting the fact regarding damage of the vehicle along with the report of the Insurance Company whereafter the authority envisaged under Section 55 of the ***Motor Vehicles Act, 1988*** would take necessary action and pass a speaking order.

Writ petition accordingly stands disposed of.

Copy of the written instructions placed by Ms. Borah, the learned Standing Counsel is made part of the records.

JUDGE

Comparing Assistant