

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13069 OF 2017

Dinesh Amulya Raha.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. B. K. Mishra for the Petitioner.

Mrs. R. M. Shinde, AGP for the Respondent-State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **July 27, 2018.**

P. C. :

1. Heard. The petition is filed seeking following reliefs :

- "a) That this Hon'ble Court be pleased to issue writ of mandamus or any other appropriate writ order or direction in the nature thereof by directing the Respondent Nos. 2, 3 and 4 to release Auto Rickshaw bearing MH-04 CW-4581 in favour of the Petitioner in good condition as they seized within stipulated period.
- b) That this Hon'ble Court be pleased to issue writ of mandamus or any other appropriate writ order or direction in the nature thereof by directing the Respondent Nos. 2, 3 and 4 to pay Rs.750/- per day as loss to the Petitioner from the date of 27/11/2012 till release of vehicle."

2. Mr. Nandkishor C. Naik, Deputy Regional Transport Officer, RTO, Thane has filed an affidavit dated 27th July 2018. In paragraph 1 thereof, a statement is made that new auto-rickshaw is being provided to the Petitioner in lieu of non traceable old vehicle

belonging to the Petitioner. Statement is also made that on 18th July 2018, the Petitioner has duly applied to the RTO Office for registration of new auto-rickshaw which bears Chassis No.MD2A24AYJWD69840 and Engine No. 24YWJD56103 and has submitted necessary documents as per the provisions of Motor Vehicle Act, 1988 and thereafter the said vehicle is duly registered in the name of the Petitioner with registration No. MH-04 JQ-1792. Further statement is made that after registration and after payment of taxes, RC book is issued by Respondent authorities along with tax receipt in the name of Petitioner. The Respondent – authorities thereafter called upon the Petitioner to remain present in its office to take possession of the said new auto-rickshaw. Accordingly, on 18th July 2018 the Petitioner remained present in the office of Respondent. However, he refused to take possession of the said auto-rickshaw. It is the grievance of the Petitioner that auto-rickshaw which was detained by the Respondent authorities was having 4 stroke engine and the auto-rickshaw which is being offered to him is of two stroke engine.

. The Respondent Authorities submitted that brand new auto-rickshaw is being provided to the Petitioner with company fitted CNG fuel engine. It was submitted that old vehicle of the Petitioner was 'Bharat Stage-III' compliant and the new vehicle is 'Bharat Stage-

IV" compliant, which complies very advance pollution norms.

3. After deliberation for some time in the Court, the learned counsel for the Petitioner having taken instructions from his client who is present in the Court, makes a statement that the Petitioner is now satisfied and willing to accept the possession of new auto-rickshaw purchased by the Respondent authorities. He submitted that possession of the new vehicle would be taken on 30th July 2018 at 11.00 a.m. by the Petitioner by attending the office of Dy. Regional Transport Officer, Thane.

4. Learned AGP, on instructions, makes a statement that the Petitioner would be handed over possession of the said auto-rickshaw on 30th July 2018. Statement is accepted. The Petitioner shall give acknowledgement to the Respondent authorities on taking possession of the new vehicle.

5. In the light of above, the learned counsel for the Petitioner fairly concedes that the Petitioner's grievance raised in the writ petition no more survives. He also submitted that the Petitioner is not pressing the relief claimed in prayer clause (b). The petition is accordingly disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]