

18-06.2019
Court No.3
Sh/15.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 105 of 2019

Ananda Mohan Sarkar.. . . Petitioner.
Vs.
State of West Bengal & Ors. .Respondents.

Mr. N. I. Khan,
Mr. Amlan Kumar Mukherjee.
. . .For the Petitioner.
Mr. Bikramaditya Ghosh,
Mr. Momenur Rahaman.
. . .For the State.

Affidavit of service filed in Court today be taken on record.

In the instant writ petition, the writ petitioner has prayed for issuance of writ in the nature of Mandamus commanding the respondent authority to show cause as to why they did not issue permanent certificate of registration in respect of the new emission compliant vehicle of the petitioner.

It is the case of the petitioner that the writ petitioner is an operator/stage carriage permit holder being P. St.P. No. 245/04 (I/R), in respect of vehicle bearing registration No. WB-71-9025 in the route Mekhliganj to Islampur Via Changrabanda, Maynaguri, Jalpaiguri, siliguri, Bagdogra and the permit was valid till 09-06-2019.

Since the existing vehicle of the petitioner was more than 15 years old and developed certain mechanical problems, the petitioner intended to replace the same by a new emission compliant vehicle.

Pursuant to the application made by the petitioner for replacement of the existing vehicle covered under the permit, the authority passed a replacement order on December 11, 2008. Thereafter the petitioner purchased the chassis and the engine and the authority issued temporary certificate of registration on 22nd February, 2019 and the said temporary registration was valid till 22nd March, 2019.

After the vehicle was complete in all respect, the petitioner applied before the respondent authority for issuance of permanent certificate of registration on 28th February, 2019.

It is the further case of the petitioner that the respondent authority has already accepted the fees for issuance of the permanent certificate of registration, but the authorities have not yet issued such certificate of registration in spite of the fact that the petitioner produced the said vehicle before the concerned authorities on several occasions.

Mr. Ghosh, learned advocate appearing on behalf of the State submits that though the vehicle was placed before the said authority on several occasions, the authority verbally intimated the petitioner that since the present vehicle is not of the similar nature, the permanent certificate of registration cannot be issued. But however, he fairly submits that no written communication of the decision of the said authority has been made to the petitioner.

It is further submitted by the learned advocate for the State that it has also been communicated to the petitioner verbally that the Regional Transport Authority of Jalpaiguri will register the replaced vehicle if the original permit issuing authority being the State Transport Authority endorses their no objection

regarding registration of the vehicle with ten excess seats than the seats mentioned in the original permit.

However the learned advocate for the petitioner disputes the fact that such communication was made by the concerned authority to the petitioner.

Be that as it may, the petitioner is directed to produce the said vehicle before the Registering Authority, Motor Vehicles Department, Jalpaiguri, being the respondent no.8 herein on 24th June, 2019 at about 12 noon. The said respondent no.8 after inspecting the vehicle as well as the documents in connection thereto shall pass a reasoned order with regard to the petitioner's prayer for issuance of permanent certificate of registration in respect of the vehicle of the petitioner strictly in accordance with law and the said reasoned order is to be communicated to the petitioner by 28th June, 2019.

The instant writ petition is disposed of with the aforesaid directions without any order as to costs.

Since the writ petition is disposed of without calling for affidavits, the allegations contained in the writ petition shall be deemed not to have been admitted by the respondents.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(HIRANMAY BHATTACHARYYA, J.)