

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

07 **11.11.**
sm **2019**

W.P.A. 581 of 2019

**Shyamal Pal
Versus
The State of West Bengal & Ors.**

Mr. N. I. Khan,
Mr. Debajit Kundu.
.....for the petitioner.

Mr. Subir Kumar Saha,
Mr. Ankan Mitra.
.....for the State.

Let the affidavit of service be kept with the record.

Mr. Khan, learned counsel appearing for the writ petitioner, makes an apparently simple prayer. This prayer is for replacement of a vehicle which the writ petitioner currently plies against the permanent contract carriage permit held by him on the route Siliguri to Alipurduar Via Birpara bearing the vehicle registration No.WB-73-4108.

Mr. Khan submits that the petitioner is a permanent contract carriage permit holder bearing the Permit No. P. Co. P. No.1120 and, such permits is valid till 31st August, 2022.

The prayer made by the petitioner is to replace his old vehicle (Bus), which is more than 15 years old, with a newer model of a similar nature. For legal support Mr. Khan draws the attention of this Court to Section 83 of the Motor Vehicles Act, (for short the 1988 act.).

Section 83 deals with replacement of vehicles with the permission of the authority, in this case, the Regional Transport Authority,(RTA), Darjeeling by which the permit was granted.

Therefore, Mr.Khan and, in the opinion of this Court justifiably so, prays for application of Section 83 of the 1988 Act and further prays for direction upon the appropriate RTA to permit replacement of the old vehicle.

Mr. Saha, learned counsel, appears for the State respondents and submits that the procedure as provided by law must be followed. It is also pointed out that the RTA having jurisdiction over the major portion of the routes should be the primary permit granting authority.

However, at the same time this Court must notice that the permit has already been granted by RTA, Darjeeling to remain valid till 31st August, 2022.

Accordingly, in the fitness of things the petitioner is permitted to approach the permit granting authority for replacement of the vehicle.

The permit granting authority shall then take steps in accordance with law not less than a period of four weeks from the date of communication.

W.P.A.581 of 2019 stands accordingly disposed of.

Since the affidavits are not invited, allegations made in the writ petition are deemed to be denied.

Urgent Photostat certified copies of this order, if applied for, be given to the applicant upon compliance of all requisite formalities.

(Subrata Talukdar, J.)