

Ct. 05
Item No.41
07.02.2022
(suvendu)

WPA 97 of 2022

[Via Video Conference]

Mahiuddin Mallick
Vs.
State of West Bengal & Ors.

Mr. Dilip Kumar Samanta
.....for the petitioner

Mr. Pantu Deb Roy
Mr. Pannalal Bandhopadhyay
.....for the State

The petitioner has challenged an order passed by the Secretary, State Transport Authority, West Bengal, dated 26th February, 2021 rejecting the petitioner's application for renewal of permit in respect of vehicle plying in a particular route.

According to learned counsel appearing for the petitioner, a jurisdictional challenge to the said order was rejected by a Coordinate Bench of this Court by its order dated 28th September, 2021. The petitioner has now challenged the impugned order on merits.

Learned counsel for the petitioner submits that the petitioner would come under Section 81(3) of the Motor Vehicles Act, 1988 and Rule 151 of the

West Bengal Motor Vehicles Rules, 1989. Counsel submits that the petitioner has paid the necessary fees for renewal of permit and that the impugned order does not take into consideration relevant statutory provisions.

Learned counsel appearing for the State opposes the prayer for setting aside of the impugned order.

Upon hearing learned counsel, this Court finds no substance in the writ petition for any orders as prayed for.

Section 81 deals with duration and renewal of permits. Section 81(3), which the petitioner relies on, starts with a non-obstante clause and states that regardless of what has been provided under Section 81(2), the State Transport Authority may entertain an application for renewal of a permit after the last date specified in Section 81(2) of the Act. The condition for accepting an application for renewal even when less than fifteen days is left for a permit to expire (as provided in Section 81(2)) is upon satisfaction of the Authority that the applicant was prevented by good and sufficient cause from making an application within a time specified under Section 81(2).

In the present case, the impugned order records that the permit expired on 23rd October,

2015 and the application for renewal was made on 27th April, 2016. Admittedly, the petitioner's application was beyond the time limit provided under Section 81(2). However, for the petitioner to seek recourse under Section 81(3), the petitioner must show that the petitioner was prevented by good and sufficient cause from making the application within the stipulated time frame or that despite such good and sufficient cause being shown, the Transport Authority disregarded such cause. The petitioner has established neither of the aforesaid cases in the present petition.

Moreover, the impugned order records with factual precision that over and above the petitioner not being able to show any real interest in obtaining the renewal of permit, the concerned vehicle was also transferred to a third party on 2nd February, 2016 after expiry of the permit. Hence, as on the date of application for renewal, i.e. on 27th April, 2016, the permit was not in relation to any particular vehicle at all.

This Court finds no factual or logical infirmity in the impugned order and no reason, therefore, to interfere with or upset the same.

The payment of fees by the petitioner under Rule 151 of the 1989 Rules would have no bearing as Rule 151 is simply a procedural safeguard for

applications for renewal of permit and for counter signature.

WPA 97 of 2022 is accordingly dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)