

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**W.P.A. No. 5605 of 2022**

M/s. APR Logistics & Ors.  
-vs.-  
The State of West Bengal & Ors.

Mr. Debabrata Saha Roy,  
Ms. Tanwishree Mukherjee  
...for the petitioners

Mr. Srijan Nayak,  
Ms. Rituparna Maitra  
...for the State

Mr. Subhankar Chakraborty,  
Mr. Saptarshi Bhattacharjee,  
Ms. Ruchira Manna  
...for the respondent no. 4

Ms. Jayati Chowdhury,  
Mr. Emon Bhattacharyya,  
Ms. Ranjana Seal  
...for the respondent no. 5

Learned counsel appearing for the petitioners contends that the respondent no. 4-Bank conducted an auction sale, in which the petitioners purchased five vehicles. However, since the registration of the vehicles still remains in the name of the previous owner, the petitioners are not being able to ply the said vehicles. It is submitted that, on a previous occasion, the vehicles were blacklisted, apparently at the instance of

respondent no. 5, Sri Rana Ghosh, who was the erstwhile owner of the vehicles.

It is further argued that unless the blacklisting is withdrawn, the petitioners are not being able to take appropriate steps for transfer of the registration of the vehicles in their own names and to take ancillary steps.

Learned counsel appearing for the respondent no. 5, Sri Rana Ghosh, contends that an arbitral award was passed against the respondent no. 5 in favour of the Bank, that is, respondent no. 4. Subsequently, however, a challenge under Section 34 of the Arbitration and Conciliation Act, 1996 has been preferred by respondent no. 5 against such award, which is now pending.

In view of such pendency of litigation till date, it is contended by learned counsel for respondent no. 5 that the blacklisting of the vehicles ought not to be removed immediately until the outcome of the Section 34 challenge is finally decided.

As far as the surrender e-mails of the respondent no. 5, annexed to the writ petition, are concerned, learned counsel for respondent no. 5 also indicates that all the vehicles mentioned in the surrender e-mails issued by the respondent no. 5 do not tally with the registration certificates of the five vehicles, which the petitioners have purchased in the auction sale.

Learned counsel appearing for the Motor Vehicles Authorities contends that the reliefs verbally prayed for by learned counsel for the petitioners do not tally with the prayers in the writ petition. It is argued that the petitioners have, till date, not even applied for transfer of registration of the vehicles in their own names.

Learned counsel appearing for the respondent no. 4-Bank adds that it is apparent from the materials annexed to the writ petition that the Bank has already submitted necessary documents for the Authorities to take adequate steps with regard to the transfer of registration.

Upon hearing learned counsel for the parties, it is clear from the materials-on-record that a valid auction sale was held, by virtue of which the ownership of the five vehicles-in-question, having registration nos. WB-23D-7522, WB-23D-7524, WB-23E-5222, WB-23E-6922 and WB-23E-6924 were transferred in the name of the petitioner no. 1. Moreover, at least in respect of three of the said vehicles, e-communications indicating that respondent no. 5, the erstwhile owner, had surrendered those vehicles is evident from the materials-on-record. It has been submitted on behalf of the petitioners that similar communications in respect of the other vehicles are also on record.

However, even apart from the surrender communications of respondent no. 5, sufficient materials have been produced to indicate that a valid auction sale was held at the instance of the respondent no. 4-Bank, pursuant to which the petitioners purchased the vehicles-in-question validly.

As such, a post facto request of the erstwhile owner, who suffered the arbitral award, cannot be reason enough to continue the blacklisting of the said vehicles.

Although a challenge under Section 34 of the 1996 Act is claimed to be pending at present, mere pendency of such a challenge, it is well-settled, cannot operate *per se* as the stay of operation of the arbitral award. Thus, at the juncture when the sale in favour of the petitioner no. 1 took place, there was no legal embargo to such sale. Hence, as of today, the petitioner no. 1 is the valid owner of the five vehicles mentioned above.

Moreover, no-objection certificates for lien/endorsement removal had also been communicated by the respondent no. 4-Bank, as evident from the annexures to the writ petition, to the concerned Regional Transport Officer in respect of the five vehicles-in-question.

In such view of the matter, there cannot be any impediment to grant registration of the aforesaid five

vehicles-in-question in favour of the petitioner no. 1. The continuance of blacklisting is also not justified in view of the developments as recorded above.

Accordingly, W.P.A. No. 5605 of 2022 is allowed, thereby setting aside the purported blacklisting of the five vehicles belonging to the petitioners, which comprise the subject-matter of the present writ petition, having registration nos. WB-23D-7522, WB-23D-7524, WB-23E-5222, WB-23E-6922 and WB-23E-6924.

The respondent nos. 2 and 3 shall ensure that necessary steps are taken at the earliest, subject to the compliance of all formalities by the petitioners on such score, for the registration of the aforementioned vehicles in favour of the petitioner no. 1. Necessary publication on the website of the Motor Vehicles Authorities shall be uploaded within two days from now in respect of lifting of the blacklisting of the five vehicles-in-question by the respondent nos. 2 and 3.

It is, however, made clear that this direction shall be subject to the result of the challenge, which is pending at the instance of the private respondent, under Section 34 of the 1996 Act. The formalities as to registration of the vehicles will be completed by the respondent nos. 2 and 3 as expeditiously as possible, preferably within four weeks from this date and/or from compliance of all formalities by the petitioners, if any such further compliance is required, whichever is later.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)