

13th May,
2022
(AK)
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W.P.A 7561 of 2022

Smt. Jyotsna Majumder
Vs.
State of West Bengal and others

Mr. Arun Kanti Bera
Mr. Soumya Sankar

...for the petitioner.

Mr. Amal Kumar Sen
Mr. Ranjan Saha

...for the State.

The petitioner's grievance is that, despite a specific direction by the Chairman, RTA, Hooghly dated March 27, 2008, pursuant to a previous order of this court, for the RTA to take "necessary action" for transfer of the permit in favour of the petitioner, no action was taken on it by the respondent authorities.

It is alleged in the writ petition, in particular paragraph 9 thereof, that after receipt of such decision dated March 27, 2008, the son of the petitioner had visited the office of the authority on a good number of occasions but every time was informed by the office that the file was not traceable.

As such, it is contended that the petitioner filed a representation in the year 2021, to goad the authorities into action on the said order of 2008.

It is contended that even thereafter, nothing has been done by the authorities, thus prompting the writ

petitioner to take resort to the remedy under Article 226 of the Constitution of India.

Learned counsel appearing for the respondent authorities, pursuant to previous direction of court, files a report, with a copy to the learned advocate for the petitioner, which indicates that the petitioner never took any steps after the order dated March 27, 2008 for the next fourteen years.

It is contended in the said report that the petitioner is not a bona fide operator, in keeping all documents valid by payment of Government fees etc., except payment of tax whimsically.

It is further alleged that the life span of the vehicle-in-question had already ended on January 6, 2020 upon attaining fifteen years of age and is required to be replaced by a new vehicle.

The permit itself has also expired.

Even the CF of the vehicle, it is contended, expired on January 9, 2009 and, hence, there is a due of Government fees to the tune of Rs. 18,250/- per annum, to be calculated up to January 6, 2020 (at the rate of Rs.50/- per day) in terms of G.S.R vide No. 1183(E) dated December 29, 2016 issued by the Government of India.

In view of the aforesaid and other grounds, as mentioned in the report, it is submitted that, under the law, it is no longer possible to take any steps regarding

transfer of the vehicle-in-question in the name of the petitioner.

Upon hearing the contention of learned counsel for the parties, it appears that the petitioner entered into a deep slumber from March 27, 2008 onwards and only came forward in the year 2021 with a representation to the authorities for implementing the direction dated March 27, 2008 of the Chairman, RTA, Hooghly.

Since several acts have to be performed from the proposed transferor's end in respect of production of the permit-in-question and other valid documents, for the purpose of getting the name transferred, it was for the petitioner to approach the authorities in due time with such relevant documents for the RTA to take necessary action for transfer of the permit.

Having not done so, it does not lie in the mouth of the petitioner, at this belated stage, that the permit could not be transferred due to inaction on the part of the authorities.

That apart, it is evident from the report, which is kept on record, that the vehicle-in-question has spent its life insofar as the designated life span of fifteen years is concerned. In fact, the permit itself has expired in the meantime.

That apart, there are several dues in respect of the said vehicle with regard to Government fees and taxes,

etc., which does not entitle the petitioner to seek such transfer at the present juncture.

Due to change of circumstances over the long period of fourteen years after March 27, 2008, the right of the writ petitioner, if any at the juncture when the order dated March 27, 2008 was passed, has lapsed, insofar as the discretion to seek a prerogative writ from this court is concerned.

In view of the inordinate delay on the part of the petitioner in taking steps with regard to the transfer of the vehicle in her name, the writ petition cannot be entertained at this stage.

Hence, WPA 7561 of 2022 is dismissed without any order as to costs.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)