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22.08.2022
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 17922 of 2022

Tarak Roy
Vs.
The State of West Bengal & Ors.

With

W.P.A. No. 17946 of 2022

Prabir Das @ Prabir Kumar Das
Vs.
The State of West Bengal & Ors.

With

W.P.A. No. 17948 of 2022

Bijoy Saha
Vs.
The State of West Bengal & Ors.

With

W.P.A. No. 17954 of 2022

Sudip Dalal
Vs.
The State of West Bengal & Ors.

With

W.P.A. No. 17957 of 2022

Pradip Kumar Datta @
Pradip Kumar Dutta
Vs.
The State of West Bengal & Ors.

With

W.P.A. No. 17958 of 2022

Bimal Dey
Vs.
The State of West Bengal & Ors.

With

W.P.A. No. 17960 of 2022

Ratan Kumar Kar @

Ratan Kr. Kar

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 17966 of 2022

Mrs. Suprity @ Supriti Nandy

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 17968 of 2022

Dip Narayan Chakraborty

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 17970 of 2022

Gouranga Sen

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 17972 of 2022

Prashanta Dey

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 17975 of 2022

Moumita Chowdhury

Vs.

The State of West Bengal & Ors.

Mr. Sankar Paul,
Mr. Tapas Samaddar,
Ms. Tapati Sarkar

...for the petitioners

Mr. Amal Kumar Sen,
 Mr. Lal Mohan Basu
 ...for the State in
 WPA 17922 /2022

Mr. Pantu Deb Roy,
 Mr. Anand Farmania
 ...for the State in
 WPA 17946/2022,
 WPA 17970/2022

Mr. Pantu Deb Roy,
 Mr. Subrata Guha Biswas
 ...for the State in
 WPA 17948/2022,
 WPA 17968/2022

Mr. M. Rahaman,
 Mr. Satanu Chakrabarti
 ...for the State in
 WPA17954/2022

Mr. Pantu Deb Roy,
 Mr. Pannalal Bandopadhyay
 ...for the State in
 WPA17957/2022

Mr. Amal Kumar Sen,
 Mr. Prantik Gorai
 ...for the State in
 WPA17958/2022

Mr. Gousal Alam,
 Mr. Abdus Salam
 ...for the State in
 WPA No. 17960/2022

Mr. Srijan Nayak,
 Ms. Rituparna Maitra
 ...for the State in
 WPA 17966/2022

Mr. Amal Kumar Sen,
 Ms. Ashima Das (Sil)
 ...for the State in
 WPA 17972/2022

Mr. Amal Kumar Sen,
 Mr. Benagir Ahmed
 ...for the State in
 WPA 17975/2022

Affidavits-of-service filed in Court today in all the matters be kept on record.

The common issue involved in all these writ petitions is that the petitioners allegedly acted on offers given to them for replacement of vehicles either in the year 2010 or to the year 2011 which, according to the petitioners, were kept pending inordinately by the respondent-authorities.

In some of the matters, documents were subsequently submitted by the petitioners, it is alleged, and approaches were made, but to no effect. Hence, the petitioners in all the matters seek action by the respondent-authorities in consonance with their representations for the purpose of registering their respective replaced vehicles.

It may be noted that the concerned vehicle in W.P.A. No. 17946 of 2022 is a bus, whereas the vehicles in the other matters are auto-rickshaws.

Learned counsel appearing for the respondents in all the matters argue that the authenticity of the initial communication of offers to the petitioners is disputed.

In W.P.A. No. 17957 of 2022, it is specifically contended by the respondent-authorities that the vehicle-in-question is registered in the name of some other person(s) than the petitioner. It is contended that in some of the matters, particularly in W.P.A. 17966 of 2022, the authorities had directed the

petitioners to produce a fresh vehicle as the vehicle did not meet the yardsticks for registration.

It is further contended by the respondents in all the matters that the claims made by the petitioners in each of the matters have become stale.

Learned counsel appearing for the respondents cite the judgment of the Supreme Court rendered in *Prabhakar vs. Joint Director, Sericulture Department and Another*, reported at (2015) 15 SCC 1, in support of the contention that the doctrines of acquiescence and laches as well as delay apply in such cases. The Supreme Court categorically held that no relief should be granted to the petitioners, who were similarly placed as the present petitioners, who waited for 11/12 years for espousing their cases before this Court.

It is argued in unison by the respondents that the pollution standards have undergone a sea-change in the meantime, between the year 2010-2011 and the present.

Hence, the reliefs sought by the petitioners, it is argued, ought not to be granted at this belated juncture.

Learned counsel appearing for the respondents also cite the judgment of the Supreme Court in *M.C. Mehta vs. Union of India & Ors.*, reported at *Writ Petition (Civil) No. 13029 of 1985*, where the Supreme Court specifically mentioned the criteria in respect of

the vehicles, meeting the BS-VI (BS-IV in certain cases of unsold vehicles) pollution norms. Hence, it is reiterated by the respondents that the registration sought by each of the petitioners cannot be granted on the basis of their obsolete vehicles.

Upon hearing learned counsel appearing for the parties, it appears from the repeated orders of the Supreme Court that the respondents are justified in arguing that the pollution standards have changed drastically in the meantime, whereas BS-III vehicles would have sufficed when the alleged offers were purportedly made, the standards required at present are much higher, keeping in view the pollution created by vehicle exhausts and otherwise.

Moreover, the respondents are justified in contending that the applications of the petitioners have been made after a considerable delay of 11/12 years. Although the petitioners in some of the matters argue that the petitioners had deposited documents subsequently, in some cases in 2019, such act simpliciter could not validate the prolonged delay occasioned by the petitioners in urging the present prayer.

Hence, even without going into the question of authenticity of the offers and/or the entitlement in law by the petitioners otherwise to get such registration, which is the subject matter of factual dispute, it is

evident, from the materials-on-record and the judgments cited, that the pollution norms and other standards and yardsticks for registration have actually undergone a sea-change from 2010-2011, that is, the years of the purported offers, and the present date.

There is no sufficient reason to grant the relief sought by the petitioners at this belated stage on the basis of 2010-2011 offers, even if such offers had actually been given.

Accordingly, all the writ petitions, bearing W.P.A. No. 17922 of 2022, W.P.A. No. 17946 of 2022, W.P.A. No. 17948 of 2022, W.P.A. No. 17954 of 2022, W.P.A. No. 17957 of 2022, W.P.A. No. 17958 of 2022, W.P.A. No. 17960 of 2022, W.P.A. No. 17966 of 2022, W.P.A. No. 17968 of 2022, W.P.A. No. 17970 of 2022, W.P.A. No. 17972 of 2022 and W.P.A. No. 17975 of 2022, are dismissed on contest.

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.)