OD-6

ORDER SHEET

WPO/1926/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. WARIS ALI
-VS-
STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 25th April, 2022.

Appearance:
Mr. Joyak Kr. Gupta, Adv.
Mr. A. Rosul, Adv.

Mr. Amal Kr. Sen, AGP
Mr. Lal Mohan Basu, Adv.

The Court: The contention raised in the writ petition is that the respondent authorities charged Rs.1,11,719/- from the petitioner, allegedly in lieu of seventeen weeks' tax with 100% penalty, despite the petitioner's bus carrying the necessary documents to prove that all such amounts in respect of taxes had already been paid by the petitioner, who is the owner as well as the driver of the bus.

The respondents, however, charged such amount without adverting to the relevant law applicable. It is further submitted that none of the legal provisions mentioned in the challan given to the petitioner for payment of the amount, are applicable to the present case at all.

Learned counsel appearing for the respondent authorities, however, submits that it will be evident from the seizure list, which has not been annexed by the petitioner, as to whether the petitioner was carrying any valid permit for the route where the bus was plying at the relevant juncture of interception of the petitioner by the authorities. It is contended that the bus was intercepted at a place, for plying the vehicle in which the petitioner does not have a permit. Since the route for which permit has been granted is different from the area where the bus was intercepted with passengers at the relevant point of time, it is contended that the petitioner was liable to pay the charges due in respect of penalty for not carrying a valid permit as per the law.

Upon hearing learned counsel for the parties, it is evident that none of the legal provisions quoted in the challan are applicable or in consonance with the charging of seventeen weeks' tax with 100% penalty, as indicated in the challan, except Section 192A of the Motor Vehicles Act, 1988, which pertains to using a vehicle without a permit.

Since the specific allegation of the respondents is that the petitioner was found without a valid permit at the relevant juncture, the offence as alleged cannot be restricted to the particular Sections mentioned in the challan only. However, since it has been disclosed that the amount was taken from the petitioner by the respondent authorities on the ground of violation of the Motor Vehicles Tax Act, 1979, the remedy of the petitioner lay in an appeal under Section 9 of the said Act against the order imposing such tax on the petitioner.

Since the Writ Court is not empowered to take evidence and arrive at complicated findings of fact, it would be appropriate if the petitioner approaches the proper forum with an appeal under Section 9 of the 1979 Act, challenging the imposition of tax and penalty on the petitioner.

Accordingly, WPO/1926/2022 is disposed of without interfering with the impugned order, granting liberty to the petitioner to challenge the impugned imposition of tax and penalty before the competent forum under the appropriate Act, as indicated above. If so approached, the said authority will decide the issue in accordance with law without being prejudiced in any manner by any of the observations made herein.

No order as to costs.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

sg.