

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 10395 OF 2022

Rajkishore Singh

Petitioner

Mr. Ramesh Chandra Swain, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

27.06.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition prays for a direction for cancellation of registration certificate of the vehicle bearing Registration No.OD-15-G-2594 (Mahindra Bolero) pursuant to the application made to that effect by the Petitioner under Annexure-5 series. He further prays for a direction to the insurer, namely, New India Assurance Company Ltd.-Opposite Party No.7 to settle the claim in respect of the said vehicle.
 3. Mr. Swain, learned counsel for the Petitioner submits that the Petitioner is the registered owner of the vehicle bearing Registration No.OD-15-G-2594 (Mahindra Bolero) and it is insured with the New India Assurance Company Ltd. The Petitioner was earning his livelihood by plying the vehicle on rent to carry passengers. The said vehicle was taken on rent by the Inspector of Police, Team Leader of SOG, A.T.-04, Kandhamal to carry SOG personnel for combing operation. While returning from the operation, the vehicle was attacked by

the Maoist Naxalities and the same was completely destroyed, which is lying in the premises of Balliguda Police Station. As the vehicle is completely damaged and is incapable of roadworthy, the Petitioner made an application to the R.T.O., Sambalpur in proper format for cancellation of registration certificate of the vehicle as at Annexure-5 series. It is further submitted that the Commissioner-cum-Chairman, STA, Odisha, Cuttack-Opposite Party No.2 vide his letter No.11010/TC dated 11th December, 2020 instructed all the Transport Officers of the State to follow the procedure laid down therein for cancellation of registration certificate under Section 55 of the Motor Vehicles Act, 1988 (for short 'MV Act'). It is also indicated therein that the registering authority will cancel the certificate of registration within ten days and enter the same in VAHAN application and that pendency of arrear tax and penalty under the Odisha Motor Vehicles Taxation Act, 1975 (for short, 'OMVT Act') or Tax Recovery Proceeding or audit dues (IR) or VCR/ E-challan or Prosecution Report shall not be a bar for cancellation of certificate or registration under Section 55 of the MV Act. He further submits that although the insurer has assured to settle the claim after cancellation of registration certificate, but has not acted upon the same, as yet.

4. In view of the above, Mr. Swain, learned counsel for the Petitioner submits that there is no impediment for consideration of the application of the Petitioner under Annexure-5 series. The R.T.O., Sambalpur-Opposite Party No.3 although received the application under Annexure-5 series for cancellation of

registration certificate, but has not taken any action on the same. Hence, this writ petition has been filed for the aforesaid relief.

5. Mr. Behera, learned Standing Counsel for Transport Department submits that the application for cancellation of registration certification of the Petitioner can be considered by the R.T.O., Sambalpur-Opposite Party No.3 in accordance with the notification, as aforesaid, as well as the report of R.T.O., Kandhamal, Phulbani vide Letter No.1827 dated 27th October, 2018 (Annexure-4 series).

6. Taking into consideration the submissions made by learned counsel for the parties, this Court disposes of this writ petition with a direction that R.T.O., Sambalpur-Opposite Party No.3 shall do well to consider the application of the Petitioner for cancellation of registration certificate of the vehicle bearing Registration No.OD-15-2594 (Mahindra Bolero) as expeditiously as possible preferably within a period of three weeks from the date of production of certified copy of this order keeping in mind the notification dated 11th December, 2020 issued by the Commissioner-cum-Chairman, STA, Odisha, Cuttack as well as the report of R.T.O., Kandhamal, Phulbani vide Letter No.1827 dated 27th October, 2018. The Branch Manager, New India Assurance Company Ltd., Rourkela-Opposite Party No.7 is also directed to take a decision on the application of the Petitioner for settlement of his insurance claim expeditiously.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge