

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12099 of 2022

Chandra Sekhar Panda

.....

Petitioner

Mr. Prasanta Kumar Nanda, Advocate

-versus-

***Joint Secretary, State Transport
Authority, Odisha and others***

....

Opp. Parties

Mr. Pravakar Behera,
Standing Counsel for Transport
(Opposite Party Nos.1 and 2)

Mr. Hara Prasad Mohanty, Advocate
(For Opposite Party No.3)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
08.08.2022**

Order No.

3. 1. This matter is taken up through Hybrid mode.
2. Affidavit filed on behalf of Opposite Party No.3 is taken on record.
3. Petitioner in this writ petition seeks to assail the letter dated 29th April, 2022 (Annexure-5) issued by Joint Secretary, State Transport Authority, Odisha, Cuttack-Opposite Party No.1 directing the Petitioner to surrender the permanent permit in respect of his vehicle bearing registration No.OD-10-C-0414, which is valid from 2nd August, 2020 to 1st August, 2025.
4. Mr. Nanda, learned counsel for the Petitioner submits that on an application filed by the Petitioner for renewal of the permanent permit in respect of the aforesaid vehicle, permanent permit from 2nd August, 2020 to 1st August, 2025 was issued through online under Annexure-2. On an application filed by

Opposite Party No.3, namely, Sunil Kumar Padhi, the Opposite Party No.1 directed him to surrender the permanent permit issued under Annexure-2 vide letter under Annexure-5 and posted the matter for hearing on the application/objection filed by Opposite Party No.3.

4.1 Mr. Nanda, learned counsel for the Petitioner further submits that once a permanent permit is issued in favour of vehicle of the Petitioner, the same could not have been directed to be surrendered without giving him opportunity of hearing. Hence, he prays for setting aside letter under Annexure-5 and to permit him to participate in the hearing of the petition/objection filed by Opposite Party No.3.

5. Mr. Behera, learned Standing Counsel for Transport Department submits that issuance of permanent permit under Annexure-2 is an error occurred out of inadvertence. Note sheet (Annexure-B to the counter filed by Opposite Party No.3) of the Secretary, STA-Opposite Party No.2 for issuance of permanent permit in respect of vehicle of the Petitioner does not disclose that permanent permit issued in favour of vehicle of the Petitioner was ever renewed. It reflects that the matter is pending for hearing. In that view of the matter, no illegality has been committed by Opposite Party No.1 in issuing letter under Annexure-5.

6. Mr. Mohanty, learned counsel for Opposite Party No.3 reiterating the submission made by Mr. Behera, learned Standing Counsel for Transport, submits that the Petitioner is taking advantage of an technical error which resulted in issuance of Annexure-2 in favour of Petitioner's vehicle. Since

the Secretary, STA has not passed any order renewing the permanent permit in respect of vehicle of the Petitioner, Annexure-2 issued through online cannot be given effect to.

7. Taking into consideration the rival contentions of the parties and in view of Annexure-B to the counter filed by Opposite Party No.3, it appears that the Secretary, STA has initiated a proceeding for issuance of permanent permit in respect of vehicle of the Petitioner. It also appears from record that Annexure-2 has been issued renewing the permanent permit in respect of vehicle of the Petitioner, which is valid till 1st August, 2025. Before issuance of letter under Annexure-5 directing the Petitioner to surrender the permanent permit issued in respect of his aforesaid vehicle, he should have been given an opportunity of hearing. That having not been done the impugned order under Annexure-5 is not sustainable.

8. Accordingly, the impugned letter under Annexure-5 is set aside. Parties are directed to appear before Secretary, STA- Opposite Party No.2 on 22nd August, 2022 along with certified copy of this order to consider validity of the permanent permit issued in respect of vehicle of the Petitioner bearing registration No.OD-10-C-0414 under Annexure-2 and in that event, the Secretary, STA shall do well to take a decision on the same giving opportunity of hearing to the parties concerned

9. With the aforesaid observation and direction, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge