

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12599 of 2022

Rajlaxmi Das

.....

Petitioner

Mr. Sabyasachi Mishra, Advocate

-versus-

***Transport Commissioner-cum-
Chairman, STA, Odisha and another***

....

Opp. Parties

Mr.Pravakar Behera,
Standing Counsel
for Commerce and Transport Department

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

**ORDER
21.06.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for a direction to consider her application/representation dated 4th April, 2022 (Annexure-4) for transfer of permanent permit bearing No.PP99/160582/G in respect of Vehicle bearing registration No.OR-05-T-6145 (Bus) in her name and to replace the same with a better / higher model vehicle bearing No.OR-04-P-4856.
3. It is submitted that husband of the Petitioner, namely, Premananda Das was a registered owner of the Vehicle No. OR-05-T-6145 (Bus) and permanent permit has been issued in respect of the said vehicle bearing No.PP99/160582/G on the route from Narasinghpur to Bhubaneswar via Athagarh. However, the husband of the Petitioner died on 4th May, 2018 and due to such untimely death, the Petitioner could not take steps in time to transfer the permanent permit in her name. It is

stated that since the aforesaid state carriage (bus) is 17 years old, the same should be replaced by an appropriate vehicle bearing No.OR-04-P-4856. In that regard, the Petitioner has submitted an application/representation to the Transport Commissioner and Chairman, State Transport Authority, Odisha, Cuttack on 4th April, 2022 and the same has not yet been considered. Hence, this writ petition has been filed for the aforesaid relief.

4. Mr. Behera, learned counsel appearing for the Transport Department placing reliance on Sections 80 and 81 of the Motor Vehicles Act, 1988 (for short, 'the Act') submits that permanent permit granted in favour of husband of the Petitioner was valid for five years from the date of its issue. The said permit remained valid for a period three months after his death. As per Section 82(2) of the Act, the Petitioner was required to make an application within a period of one month for transfer of permanent permit in her name. Sub-section (3) of Section 82, however, makes a provision that the delay in filing an application under Section 82(2) of the Act can be condoned subject to showing good and sufficient cause for making such application after the statutory period (within three months). In the instant case, the Petitioner has made the application under Annexure-4 after four years from the date of death of her husband. Since it is submitted that her application under Annexure-4 is pending before the Commissioner-cum-Chairman, State Transport Authority, Odisha, Cuttack, the same can be directed to be considered in accordance with law. It is further submitted that prayer for substitution of the vehicle

can be considered after the prayer for transfer of permanent permit in the name of the Petitioner.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that the application for transfer of permanent permit has been filed by the Petitioner after expiry of the statutory period. However, proviso to Sub-section (3) of Section 82 of the Act makes a provision for condonation of delay by the authority on being satisfied with the cause shown for not making an application for transfer within the statutory period. In that view of the matter, this Court is of the considered opinion that the application of the Petitioner under Annexure-4 requires consideration keeping in mind the aforesaid provision of law.

6. Accordingly, the writ petition is disposed of with a direction to Opposite Party No.1-Commissioner-cum-Chairman, State Transport Authority, Odisha, Cuttack to consider the application of the Petitioner under Annexure-4 for transfer of permanent permit and for substitution of higher model vehicle bearing No.OR-04-P-4856 in accordance with law giving opportunity of hearing to the Petitioner, as expeditiously as possible, preferably within a period of four weeks from the date of production of certified copy of this order along with a copy of application of the Petitioner as at Annexure-4.

Urgent certified copy of this order be granted on proper application

(K.R. Mohapatra)
Judge