

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 16607 of 2022

Subal Nayak

....

Petitioner

Mr. Kapila Charan Nayak, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Pravakar Behera,

Standing Counsel

(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

19.07.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition prays for a direction to send the Challan/VCR dated 10th April, 2021 in respect of the vehicle bearing registration No.OR-09-D-1191 (Goods carrier) to the jurisdictional Magistrate for appropriate relief. He further prays for a direction to the Regional Transport Officer, Nabarangapur to consider his case for issuance of fitness certificate and permit.
3. Mr. Behera, learned Standing Counsel for Transport Department submits that in view of Section 194 of the Motor Vehicles Act, 1988, the Petitioner is required to appear before the Authority, who has issued the VCR and pray for transmission of the record to the jurisdictional Magistrate, if it wants to contest the case. The Petitioner has not yet appeared before the authority and made such prayer. After amendment of the MV Act, 1988, overloading is being treated rigidly. Since the

Challan/VCR amount is Rs.29,500/-, the Petitioner may be directed to deposit 50% of the same and contest the case before the jurisdictional Magistrate. Mr. Behera, learned Standing Counsel for Transport further submits that in view of the Road Safety Committee constituted by the Hon'ble Supreme Court, the driving license of the driver of the offending vehicle is liable to be suspended. Hence, he prays that the Petitioner is required to produce the driving license in original of the driver of the offending vehicle for taking appropriate action.

4. Taking into consideration the submissions of learned counsel for the parties, this Court directs that without prejudice to the case of either parties, in the event the Petitioner deposits a sum of Rs.14,750/- (rupees fourteen thousand seven hundred fifty only) before the R.T.O., Kendrapara-Opposite Party No.2 along with driving license of the driver of the offending vehicle and on deposit being made, the Challan/VCR shall be transmitted to the jurisdictional Magistrate for adjudication in accordance with law. It is made clear that such deposit, if made, as directed above, shall be subject to the result of the adjudication to be made by the jurisdictional Magistrate.

5. So far as issuance of fitness certificate and permit is concerned, the Petitioner may apply for the same to the R.T.O., Kendrapara-Opposite Party by filing necessary application, which shall be considered in accordance with law.

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

7. A copy of the writ petition along with a copy of this order shall be served on Mr. Behera, learned Standing Counsel for Transport Department for onward communication to the Opposite Party.

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

(K.R. Mohapatra)
Judge



s.s.satapathy