

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 19798 OF 2022

Susim Kanti Mohanty ***Petitioner***

Mr. Lalit Kumar Maharana, Advocate

-versus-

State of Odisha and another ***Opp. Parties***

Mr. Pravakar Behera, Standing Counsel

(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

10.08.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for a direction to send the Challan/VCR dated 29th July, 2022 in respect of the vehicle bearing Registration No.OD-02-AP-5675 (Bus) to the jurisdictional Magistrate for appropriate relief. He further prays for a direction to the Registering Authority, Koraput 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 (for short 'the Act'), 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 he wants to contest the case. The Petitioner has not yet appeared before the authority and made such prayer. After amendment of the Act, overloading is being treated rigidly. Since the Challan/VCR amount is Rs.10,000/-, the Petitioner may be directed to deposit 50% of the same and contest the case before the jurisdictional Magistrate.

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.5,000/- (Rupees five thousand only) before the Registering Authority, Koraput-Opposite Party No.2 along with an application for sending the Challan/VCR to the jurisdictional Magistrate, the Challan/VCR shall be transmitted to the jurisdictional Magistrate for adjudication in accordance with law and the vehicle bearing Registration No.OD-02-AP-5675 (Bus) shall be released in favour of the Petitioner. 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 Registering Authority, Koraput-Opposite Party No.2 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 Parties.

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

(K.R. Mohapatra)
Judge