

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 22486 OF 2022

Khirod Pati

....

Petitioner

Mr. H.P. Mohanty, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Pravakar Behera, Standing Counsel
(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.09.2022

Order No.

2. 1. This matter is taken up through hybrid mode.
2. 2. The Petitioner in this writ petition seeks to assail the order dated 10th August, 2022 (Annexure-4) issued by the Secretary, STA, Odisha, Cuttack-Opposite Party No.3 rejecting his application for temporary permit in respect of the vehicle bearing Registration No.OD-11-C-8188.
3. 3. Mr. Mohanty, learned counsel for the Petitioner submits that the Secretary, STA, Odisha, Cuttack has no jurisdiction to pass the order under Annexure-4. It is the Chairman, STA, Odisha, Cuttack, who is competent to take a decision in the matter. Although the application of the Petitioner for temporary permit was made for the route from Balasore to Agarpada and back in respect of the vehicle bearing Registration No.OD-11-C-8188, but the order under Annexure-4 reflects that he has been advised to make a fresh application for temporary permit deleting the region coming under the R.T.O., Bhadrak, since only 5 K.Ms. of the route comes under the R.T.O., Bhadrak. It is his submission that when the Petitioner made an application for temporary permit for a particular route, it may either be accepted

or rejected, the authority under the Act is not competent to take a different decision other than the prayer made in the application. Hence, he prays for setting aside the impugned order under Annexure-4 and to direct the State Transport Authority, Odisha, Cuttack to grant temporary permit in respect of the vehicle of the Petitioner bearing Registration No.OD-11-C-8188 for the route from Balasore to Agarpada.

4. Mr. Behera, learned Standing Counsel for the Transport Department, on instruction, submits that the order under Annexure-4 was issued pursuant to the decision taken in the committee meeting held on 26th May, 2022 in which Online application of the Petitioner was considered. Pursuant to the decision of the committee, the impugned order under Annexure-4 was communicated by the Secretary, STA, Odisha, Cuttack to the Petitioner. The Secretary, STA is authorized by the Chairman to communicate the order. He further submits that the impugned order is appealable one under Section 89 of the Motor Vehicles Act, 1988 (for short 'the Act'). Hence, this writ petition is not maintainable.

5. Mr. Mohanty, learned counsel for the Petitioner, however, submits that no decision on the application for temporary permit is taken in the committee meeting of STA. It is only taken by the Chairman. Thus, the submission of Mr. Behera, learned Standing Counsel for the Transport Department is not correct.

6. Considering the rival contentions of the parties, this Court finds that the matter requires consideration vis-a-vis the authority of the Secretary, STA, Odisha, Cuttack to issue the order under Annexure-4 as well as the decision, if any, taken in the

committee meeting dated 25th June, 2022. The State Transport Appellate Tribunal is competent to look into the matter by scrutinizing the concerned record.

7. Hence, this Court without resorting to the aforesaid exercise disposes of this writ petition with an observation that the Petitioner, if so advised, may avail the remedy under Section 89 of the Act by filing an appeal before learned Tribunal and in that event, learned Tribunal shall do well to consider the appeal and dispose of the same in accordance with law as expeditiously as possible preferably within a period of six weeks, if the appeal is filed within a period of seven days hence along with certified copy of this order.

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

(K.R. Mohapatra)
Judge

bks

