

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 23662 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

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

15.09.2022

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 6th September, 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 State Transport Authority, Cuttack 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.10,050/-, 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.5,000/- (rupees five thousand only) before the State Transport Authority 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 and the aforesaid vehicle 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 State Transport Authority by filing necessary application, which shall be considered in accordance with law. Petitioner is also directed to submit his show cause reply to the notice dated 8th June, 2022 (Annexure-3) within a period of two weeks hence.

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



s.s.satapathy