

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 25807 OF 2022

Srimanta Mohapatra

....

Petitioner

Mr. Ambika Ballav Mallick, Advocate

-versus-

Union of India and others

....

Opp. Parties

Mr. Prasanna Kumar Parhi,
Deputy Solicitor General of India along with
Ms. Jyotsnamayee Sahoo, CGC
(For Opp. Party No.1)

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

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

**ORDER
01.11.2022**

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays to quash the Notification No.G.S.R.1183 (E) dated 29th December, 2016 issued by Ministry of Road Transport and Highways, Government of India, New Delhi amending Rule 81 of the Central Motor Vehicles Rules, 1989 (for short “the Rules”) for levy of additional fees for renewal of certificate of registration for each month of delay after expiry of registration certificate, which was incorporated under entry at Sl. No.4 of the table and to direct the Opposite Parties-authorities to renew the registration certificate in respect of vehicle bearing Registration No.OR-05-S-4791 without payment of additional fees per month.

3. It is submitted by Mr. Mallick, learned counsel that the Petitioner is the registered owner of Vehicle No.OR-05-S-4791. The Petitioner applied for renewal of registration of the aforesaid vehicle to the R.T.O., Cuttack. But, the same was not accepted insisting upon payment of additional fee in view of amendment of Rule 81 of the Rules. It is submitted by learned counsel for the Petitioner that the amendment in Rules 32 and 81 of the Rules imposing additional fee has already been set aside by this Court in ***W.P.(C) No.18124 of 2019 (Anirudha Kumar Dash-vrs.- Union of India and others) and a batch of writ petitions*** disposed of on 13th December, 2019, relevant portion of which reads as under:

“13. After considering the entire fact situation of the instant cases and submissions made by the learned counsel for the parties, and after considering Paragraph-8 of the judgment of the Madras High Court referred to above, we are of the opinion that there cannot be different implications of the same notification in two different States. Therefore, to maintain the uniformity, by following the judgment of the Madras High Court, we also consider it appropriate to struck down the amendment Rule 32 and Rule 81 of the Rules amended vide impugned Notification No.G.S.R.1183(E) dated 29.12.2016 issued by the Ministry of Road Transport & Highways, New Delhi, Government of India, to the extent of imposition of additional fee only.

13.1 However, it is made clear that it will be subject to final result of the appeal filed by the Union of India before the Supreme Court. It is further clarified that if ultimately the Government succeeds in the Supreme Court, it will be open for the Government to recover the amount of additional fees from the Petitioners from the date of implementation of the notification.”

4. In view of the above, learned counsel for the Petitioner submits that the demand of additional fee to renew the

registration certificate is not legal. Hence, this writ petition has been filed for a direction to the R.T.O., Cuttack to renew the registration certificate of the aforesaid vehicle without insisting upon payment of additional fee under Rule 81 of the Rules.

5. Mr. Behera, learned Standing Counsel for the Transport Department submits that there is no material on record to show that the Petitioner had, in fact, approached the R.T.O., Cuttack for renewal of registration certificate of the aforesaid vehicle. He, however, does not dispute the position of law as stated by learned counsel for the Petitioner and submits that the matter is at present pending for consideration before Hon'ble Supreme Court. He, further, submits that if an application is filed by the Petitioner for renewal of registration certificate complying with other formalities, the same can be considered by the R.T.O., Cuttack in accordance with law. The Petitioner should also file an undertaking to the effect that, if Union of India succeeds in the appeal pending before Hon'ble Supreme Court, the Petitioner will be liable to pay the additional fee as stated in Paragraph-13.1 of the aforesaid judgment.

6. Taking into consideration the submission made by learned counsel for the Petitioner and the ratio in ***W.P.(C) No.18124 of 2019 (Anirudha Kumar Dash)*** (supra), this Court is of the considered opinion that the R.T.O., Cuttack should accept the application for renewal of registration certificate stated to have been filed by the Petitioner without insisting upon payment of additional fee in terms of Rule 81 of the Rules.

7. It is, accordingly, directed that in the event, the Petitioner makes an application complete in all respect for renewal of registration certificate of the aforesaid vehicle within a period of two weeks hence along with certified copy of this order, the R.T.O., Cuttack-Opposite Party No.3 shall do well to accept the same (if not submitted earlier) and do the needful in accordance with law without insisting upon payment of additional fee for delay in making such application. In view of the observation made by this Court in paragraph-13.1 of the order in *W.P.(C) No.18124 of 2019 (Anirudha Kumar Dash)* (supra), no undertaking is required to be given by the Petitioner, as submitted by Mr. Behera, learned Standing Counsel for Transport Department.

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

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

(K.R. Mohapatra)
Judge

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