

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 32048 of 2022

Surya Narayan Panigrahi

....

Petitioner

Mr. Sitansu Mohan Singh, Advocate

-versus-

State of Odisha and others

.... ***Opp. Parties***

Mr. Pravakar Behera,

Standing Counsel for Transport

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

29.11.2022

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 28th October, 2022 in respect of the vehicle bearing registration No.OD-02-AF-3856 (Tipper) to the jurisdictional Magistrate for appropriate relief. He further prays for a direction to the Assistant RTO, Khordha 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 he 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.1,47,540/- including the tax and penalty, the Petitioner may be directed to deposit the arrear tax and 50% of the rest of challan amount 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 the up-to-date MV tax together with 50% of the rest of Challan/VCR amount (out of Rs.42,540/-), i.e., Rs.21,220/- (rupees twenty-one thousand two hundred twenty only) in respect of VCR/Challan dated 28th October, 2022 before the Assistant RTO, Khordha along with driving license of the driver of the offending vehicle, the aforesaid vehicle shall be released in favour of the Petitioner and 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 State Transport Authority 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.

s.s.satapathy

(K.R. Mohapatra)
Judge