

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 34171 OF 2022

Usha Devi

....

Petitioner

Mr. Rajiv Kumar Mahanta, Advocate

-versus-

***The Transport Commissioner-cum-
Chairman, STA, Odisha, Cuttack and
another***

....

Opp. Parties

Mr. Pravakar Behera,
Standing Counsel, Transport Department

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

**ORDER
19.12.2022**

Order No.

01. 1. This matter is taken up through Hybrid mode.
2. This writ petition has been filed for a direction Additional Road Transport Officer, Barbil-Opposite Party No.2 to pass necessary order for cancellation of registration certificate in respect of vehicle bearing registration No.OR-09-H-7391 (Tipper) pursuant to the application made to that effect by the Petitioner on 5th November, 2022 (Annexure-3).
3. Learned counsel for the Petitioner submits that the registration certificate of the vehicle in question has been issued in favour of the Petitioner. But in the meantime, the vehicle has been destroyed for which the Petitioner made an application (Annexure-3) for cancellation of registration under Section 55 of the Motor Vehicles Act, 1988 (for short 'MV Act'), which is yet to be considered. It is further submitted that the Commissioner-cum-Chairman, STA, Cuttack-Opposite Party No.1, vide his

letter No.11010/TC dated 11th December, 2020, instructed all the Transport Officers of the State to follow the procedure laid down therein for cancellation of registration certificate under Section 55 of the MV Act. It is also indicated therein that the registering authority will cancel the certificate of registration within ten days and enter the same in VAHAN application and that pendency of arrear tax and penalty under the Odisha Motor Vehicles Taxation Act, 1975 (for short, 'OMVT Act') or Tax Recovery Proceeding or audit dues (IR) or VCR/ E-challan or Prosecution Report shall not be a bar for cancellation of certificate or registration under Section 55 of the MV Act.

3.1 In view of the above, learned counsel for the Petitioner submits that there is no impediment for consideration of the application of the Petitioner under Annexure-3. The Opposite Party No.2-ARTO although received the application under Annexure-3 for cancellation of registration certificate, but has not taken any action on the same. Hence, this writ petition has been filed for the aforesaid relief.

4. Mr. Behera, learned Standing Counsel for the Transport Department submits that the application submitted by the Petitioner under Annexure-3 is required to be considered keeping in mind the instructions issued by the Commissioner-Chairman, STA.

5. In view of the submissions made by learned counsel for the parties, this Court without expressing any opinion on the merit of the application filed by the Petitioner under Annexure-3, disposes of the writ petition with a direction that in the event the Petitioner makes an application in proper format along with certified copy of the order within a period of two weeks hence,

the Opposite Party No.2-ARTO, Barbil shall take a decision on such application for cancellation of the registration certificate in respect of vehicle bearing registration No.OR-09-H-7391 (Tipper) in the light of the instructions issued by Commissioner-Chairman, STA-Opposite Party No.1 vide his letter referred above, as expeditiously as possible preferably within a period of three weeks therefrom and communicate the same to the Petitioner.

Issue urgent certified copy of the Order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy