

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 35747 OF 2022

Md. Nishad Alam

....

Petitioner

Mr. Chandan Mishra, Advocate

-versus-

R.T.O., Barbil and another

....

Opp. Parties

Mr. Pravakar Behera,

Standing Counsel

(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

23.12.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. This writ petition has been filed for a direction to the Regional Transport Officer, Barbil-Opposite Party No.1 to pass necessary order for cancellation of registration certificate in respect of vehicle bearing Registration No.OR-09-C-7120 pursuant to the application made to that effect by the Petitioner on 7th December, 2022 (Annexure-2).
3. Mr. Mishra, 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 in proper format (Annexure-2) 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.2 vide his letter No.11010/TC dated 11th December, 2020 (Annexure-1) 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, Mr. Mishra, learned counsel for the Petitioner submits that there is no impediment for consideration of the application of the Petitioner under Annexure-2. The Opposite Party No.1-R.T.O., Barbil although received the application under Annexure-2 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-2 is required to be considered keeping in mind the instructions issued by the Commissioner-cum-Chairman, STA, Odisha, Cuttack-Opposite Party No.2.

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-2 disposes of this writ petition with a direction that on production of certified copy of the order, the R.T.O., Barbil-Opposite Party No.1 shall take a decision on the application of the Petitioner under Annexure-2 for cancellation of the registration certificate

in respect of vehicle bearing Registration No.OR-09-C-7120 in the light of the instructions issued by Commissioner-cum-Chairman, STA, Odisha, Cuttack under Annexure-1 as expeditiously as possible preferably within a period of three weeks therefrom and communicate the same to the Petitioner.

6. It is needless to say that the Petitioner may also move the R.T.O., Barbil-Opposite Party No.1 for cancellation of hypothecation as per law.

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

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