

06.02.2023
Ct. 5
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WPA 745 of 2023

Suman Das
-Vs-
State of West Bengal & Ors.

Mr. Rupayan Deb,
Ms. Priya Nandy,
Ms. Varsha Roy

... for the petitioner

Mr. Amal Kumar Sen,
Mr. Jaladhi Das

... for the State

The petitioner is aggrieved by a document uploaded on the mParivahan Portal showing a blacklisted status of the petitioner's vehicle for emission of pollution above the permissible level. The impugned document was uploaded on 12th April, 2022 and the petitioner received SMS on that date itself. This is the specific case made out in the writ petition. The petitioner seeks quashing of the impugned document blacklisting the petitioner's vehicle.

Learned counsel appearing for the State relies on The Central Motor Vehicles Rules, 1989 and submits that the petitioner has not complied with the mandatory requirements under the Rules.

Upon considering Rule 116 and the Sub-Rules thereunder, this Court is of the view that the petitioner has not made a case for relief. Rule 116 deals with test for smoke emission level and carbon monoxide level for vehicles. Rule 116(1) specifies that any officer not below the rank of Sub-Inspector of Police/Inspector of Motor Vehicles who has reason to believe that a motor vehicle has not complied or is not complying with the provisions of Rules 115(2)/115(7), the officer may direct the driver or the person in charge of the vehicle to submit the vehicle for conducting a test to measure the standards of emission and produce such certificate to an authority within 7 days.

Rule 116(2) similarly puts the onus on the driver/person in charge of the vehicle to submit the vehicle for testing for compliance of the provisions of Rules 115(2) and (7). Rule 116(5) provides that if the test results indicate that the motor vehicle does not comply with provisions of Rules 115 (2) and (7), the driver/person in charge of the vehicle shall rectify the defects so as to comply with the aforesaid Rules within 7 days and submit the vehicle to any authorized testing station for re-check and produce a certificate so obtained to the designated authority.

The present facts indicate that the petitioner was communicated with the impugned decision of blacklisting for emission level exceeding the permissible

level on 12th April, 2022 itself. The petitioner was hence under an obligation thereafter to comply with the sequence provided under Rule 116. The petitioner has admittedly not done the same and has instead come to the Writ Court for quashing of the impugned document. Rule 116(6) clearly provides that if the certificate referred to under Rule 116(1) is not produced within the stipulated period of 7 days or if the vehicle fails to comply with the provisions of Rules 115(2) and (7) within a period of 7 days, the owner of the vehicle shall be liable for the penalty prescribed under Section 190 of the Act.

Since the petitioner has failed to comply with the steps which the petitioner required to take and that too within 7 days under Rule 116(1), this Court is not inclined to grant any relief to the petitioner. The petitioner may at best be given the liberty to approach the concerned authority for getting a challan on the prescribed penalty and thereafter take steps as provided in law.

WPA 745 of 2023 is accordingly dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)