26.06.2023
rc/ct.no.10
Item No.120

WPA No. 5909 of 2023
Sanjay Kumar Choudhury
Versus
State of West Bengal & Ors.

Mr. Sakti Pada Jana ...for the Petitioner

Mr. Amal Kumar Sen
Mr. Jaladhi Das ...for the State

Heard learned counsels appearing on behalf of the parties.

The challan/order issued by the Motor Vehicles Inspector (Non-Technical) against the petitioner on January 13, 2023 is assailed in the writ petition.

It is submitted on behalf of the respondents that the Motor Vehicles Inspector (Non-Technical) has issued this document in the capacity of "Taxing Officer" as defined under Section 2(g) of the West Bengal Motor Vehicles Tax Act, 1979 (hereinafter referred to as "the Act of 1979"). Imposition of tax and fine by the said officer is under challenge. The said order is amenable to appeal under Section 9 of the West Bengal Motor Vehicles Tax Act, 1979 and Section 22 of the West Bengal Additional Tax and One-Time Tax on Motor Vehicles Act, 1989.

Learned counsel for the respondents has placed reliance on a judgment passed by the Hon'ble Division Bench of this Court on June 21, 2022 in WPO No. 1926 of 2022 wherein the Hon'ble Division Bench supported the submission made by the learned counsel for the respondents therein that if the allegation of plying the bus without permit is proved against the petitioner, he will be liable to pay 17 weeks' tax under schedule B of the Tax Act and any grievance with regard to this would be covered by Section 9 of the Act of 1979.

The Hon'ble Division Bench confirmed the order of the learned Trial Judge relegating the matter to the appropriate forum under Section 9 of the Act of 1979.

Upon consideration of the submission made on behalf of the parties as well as law on the point, this Court is inclined to hold that the grievance of the petitioner in the writ petition is amenable to appeal under Section 9 of the Act of 1979 and Section 22 of the Act of 1989.

Accordingly this writ petition is dismissed as not maintainable.

Liberty is granted to the petitioner to approach the appellate forum for redressal of his grievance.

In the event the petitioner approaches the appellate forum within two weeks from date, the appellate forum shall dispose of the appeal on merits in accordance with law without dismissing the same on the limitation ground.

There shall however be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)