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W.P.A. 7267 of 2023
(Tarakeshwar Singh vs. State of West Bengal & Ors.)

Mr. Srinjay Das
Mr. Saroj Banerjee
Ms. Jui Jana

.... For the Petitioner

Mr. Pantu Deb Roy
Mr. Subrata Guha Biswas

.... For the State

Mr. Sasanka Kr. Mondal
Mr. Aniruddha Lahiri

.... For the Respondent No. 5

Heard learned counsels for the parties.

The petitioner was slapped with a challan of Rs.53,000/- on three fold grounds:-

- i) Carrying excess load (Fine-Rs.38,000/-);
- ii) Driving dangerously (Fine- Rs.5,000/-);
- and
- iii) Plying vehicle without or invalid certificate of fitness (Fine – Rs.10,000/-).

The petitioner challenges the fine of Rs.38,000/- imposed for carrying excess load. The petitioner has already deposited the total fine amount before the authority.

Learned counsel for the petitioner takes this Court to the registration certificate of the vehicle in question which demonstrates that the gross combination weight of the vehicle should be 55,000 kgs. The weight of the petitioner's vehicle was found to be 46,500/- kgs by the Motor Vehicles Inspector for which the fine was imposed.

Learned counsel for the State respondents has placed reliance on the report in the form of affidavit submitted by the 2nd respondent which contains two notifications of the Ministry of Road Transport and Highways issued on 16th July, 2018 and 6th August, 2018 respectively. The notifications deal with axle types of several categories of vehicles. The report deals with vehicular specification and other technical issues which are not explained.

As enumerated in Section 58 of the Motor Vehicles Act, 1988, the registering authority, while registering a transport vehicle is supposed to record the unladen weight of the vehicle, the number, nature and sizes of the tyres attached to each wheel and gross vehicle weight of the vehicle and the registered axle weights pertaining to the several axles thereof.

The registration certificate records that the gross combination weight of the vehicle is 55,000 kgs. Since the gross vehicle weight was found to be 46,500/- kgs., that is, below the weight indicated in the registration

certificate, it cannot be said that vehicle was carrying excess load at the relevant time. Fine of Rs.38,000/- imposed upon the petitioner for carrying excess load is arbitrary and without any legal sanction.

In the said backdrop, this Court is inclined to hold that the concerned authority, being the 2nd respondent herein, be directed to refund the amount of Rs.38,000/- already deposited by the petitioner within two weeks from the date of communication of this order.

The writ petition is thus disposed of .

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)