

30.08.2023
rc/ct.no.10
Item No.258

WPA No. 11048 of 2023
Manjit Singh
Versus
The State of West Bengal & Ors.

Mr. S.N.Mukherjee
Sk. Samim Akhter ...for the petitioner

Mr. Pantu Deb Roy
Mr. Pannalal Bandyopadhyay ...for the State

Mr. Debabrata Chakraborty
...for the respondent no.5

Heard learned counsels appearing on behalf of the parties.

The petitioner and the private respondent are uterine brothers and the private respondent transferred the vehicle being WB-37B-3152 in favour of the petitioner. The permit granted in respect of the said vehicle was valid upto November 01, 2022. Since the vehicle completed 15 years of age as on December 13, 2022, it was sought to be replaced by a BS-III compliant vehicle bearing registration no. WB-57B-6146 registered in the name of the petitioner. The petitioner submitted an application before the concerned authority on September 09, 2022 seeking renewal of the permit upon replacement of the earlier vehicle which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the petitioner takes this Court to the resolution of the STA Board taken in its meeting dated March 17, 2017 wherein the joint application for transfer of permit submitted by the petitioner and the private respondent was taken into consideration and the Board approved the said transfer subject to the transferee producing a vehicle legally owned by him within the validity of the permit. It was also recorded that the vehicle should be compatible with the prevalent pollution norms.

Placing reliance on the report in the form of affidavit submitted on behalf of the respondents, learned counsel for the respondents draws the attention of the Court to a decision taken in a Board meeting held on December 08, 2022 to the effect that henceforth no new inter-state permit and replacement of vehicle will be counter signed if the vehicle does not possess pollution norms less than BS-IV. Learned counsel points out that though the private respondent/permit holder applied before the authority for renewal of his permit on September 09, 2022, the document annexed to the writ petition reveals that an identical application was also made before the authority by the petitioner on the same date. Also, it is only after lapse of 5½ years that the private respondent has applied for renewal of his permit.

The resolution taken on March 17, 2017 demonstrates that upon clarification being made by the petitioner and the private respondent, their request for

transfer of permit was approved by the Board subject to certain conditions. It is a fact that two separate applications were made by the petitioner and the private respondent before the authority for renewal of the permit on the same day in respect of the earlier vehicle. The private respondent having agreed to transfer the permit in favour of the petitioner, submission of two separate applications does not indicate any malafide on the part of the petitioner. The resolution dated December 08, 2022 relied upon by the respondents is prospective and the application for renewal of permit was made by the petitioner and the private respondent on September 09, 2022, i.e., prior to the said resolution. Therefore, such renewal is not governed by the resolution taken on December 08, 2022. Moreover, the resolution is with regard to counter signature of permits and not issuance or renewal of the same.

Since the private respondent is willing to transfer the permit in favour of the petitioner and the petitioner is ready to replace the earlier vehicle by the later one, this Court is inclined to hold that the concerned authority being respondent no. 4 herein, be directed to consider the application submitted by them in accordance with law.

The writ petition is disposed of directing the 4th respondent to consider and dispose of the application submitted by the petitioner and the private respondent jointly within one month from the date of communication

of this order upon affording reasonable opportunity of hearing to the petitioner and the private respondent and in the light of the observation made in the body of this order, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

With the above observation and direction this writ petition is disposed of.

There shall be, however, 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)