

WPA 13507 of 2023

Md. Jairul Islam
Vs.
The State of W.B. & Ors.

Mr. Mohinoor Rahaman
Ms. Iqra Rahaman ...for the petitioner.

Mr. Amal Kr. Sen
Ms. Ashima Das (Sil) ...for the State.

Heard learned counsels for the parties.

The petitioner has assailed the e-challan issued by the respondent authorities against him on 10th May, 2023. The challan slaps a fine of Rs.41,000/- upon the petitioner on three-fold grounds:- i) carrying excess load (fine Rs.26,000/-); ii) driving dangerously (fine Rs.5,000/-) and iii) any transport vehicle plying without permit/invalid permit or violation of permit if permit required as per 66 of MV Act (fine Rs.10,000/-).

Learned counsel for the petitioner submits that the gross vehicle weight of the vehicle was well within permissible limits. The alleged dangerous driving is vague and has not been proved. The permit of the petitioner is valid up to 20th November, 2027 and as such the e-challan is without any basis and is required to be quashed.

Placing reliance on the report in the form of affidavit submitted by the 5th respondent, learned counsel for the respondents submits that the vehicle in question was

carrying excess load beyond permissible limit and also there has been violation of Rule 90 of the Central Motor Vehicles Rules, 1989 insomuch as the words “National Permit or N/P” was not inscribed in the front and rear of the vehicle in bold letters.

The notification issued by the Government of India, Ministry of Road Transport and Highways on 6th August, 2018, relied upon by the learned counsel for the respondents, demonstrates that the gross vehicle weight shall not exceed the total permissible safe axle weight as above and in no case shall exceed 49 tonnes in case of rigid vehicles.

The explanation of the said notification says that for the purposes of this notification, tolerance up to 5 % in the gross vehicle weight shall be allowed for the purpose of compliance to sub-section (3) of Section 113 of the Motor Vehicles Act, 1988.

In the present case, the gross vehicle weight was found to be 19560 kgs. which is within the 5% relaxation granted in the notification dated 6th August, 2018. Therefore it cannot be said that the vehicle was carrying excess load at the relevant time.

“Dangerous Driving” has been dealt with in Section 184 of the Act of 1988. According to the said provision dangerous driving includes driving of a motor vehicle at a speed or in a manner which is dangerous to the public or which causes a sense of alarm or dangerous to the

occupants of the vehicle, other road users and persons near the roads. The e-challan merely imposes fine of Rs.5,000/- for dangerous driving and does not substantiate such act on the part of the driver of the vehicle. A solitary statement of dangerous driving without any supporting evidence is far from sufficient to impose fine of Rs.5,000/- for the same.

Though the respondents have tried to impress upon the Court that the petitioner has violated the conditions for National Permit as laid down in Rule 90 of the 1989 Rules, the said allegation has also not been proved. No photograph of the vehicle has been taken by the authority to substantiate violation of the said Rule by the petitioner.

In view of the above, this Court is inclined to hold that that the e-challan issued by the authority against the petitioner is devoid of supporting evidence and is, therefore, required to be quashed/set aside.

Accordingly, the writ petition succeeds.

The e-challan issued by the Motor Vehicles Inspector (Non Technical) against the petitioner on 10th May, 2023 is set aside/quashed.

The respondents are directed to unlock the vehicle search website of the petitioner in respect of the vehicle no.WB59 C 9880 forthwith in order or enable smooth plying of the vehicle by the petitioner.

The writ petition is disposed of.

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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)