

WPA 17884 of 2023
With
CAN 1 of 2024

M/s. Pansen Engineering India Private Limited
& Anr.
Vs.
The State of West Bengal & Ors.

Ms. Debjani Ghosal, Sr. Counsel.
Ms. Moumita Mukherjee.
... for the petitioners

Mr. Amal Kumar Sen, Id. A.G.P.,
Mr. Lal Mohan Basu.
... for the State

The subject matter of the writ petition is with regard to non issuance of the certificate of registration to the e-rickshaw vehicles manufactured by the writ petitioners.

The reason for refusal for grant of such registration of e-rickshaw vehicles of the petitioners by the respondent authority is an order of injunction passed by the Additional District Judge, 13th Court, Alipore dated 24th February, 2020 in Title Suit No. 27 of 2018 regarding registration of battery operated eco-friendly e-rickshaws.

The impugned memos have been issued in the year 2022. The memo dated January 13, 2022 restricts registration of battery operated eco-friendly e-rickshaw, in terms of the order passed in the title suit as mentioned above.

The memo dated July 13, 2022 allows registration of e-rickshaws manufactured by M/s Mahindra & Mahindra Limited.

Learned Sr. Counsel Ms. Debjani Ghosal appearing for the writ petitioners submits, that the decision taken by the authorities vide the impugned memo dated July 13, 2022 shall squarely apply in case of the present petitioners. Hence, she says that there would not be any impediment for the respondent authority to register the said battery operated e-rickshaws.

Learned Sr. Council Ms. Debjani Ghosal appearing for the writ petitioners has also indicated that on several occasions earlier in similar cases, the Court has granted relief to the petitioners. Hence, it urged that the present writ petition be similarly dealt with.

Learned Additional Government Pleader, Mr. Amal Kumar Sen is appearing for the Respondent/State. So far as the decision of this Court earlier in other writ petitions dealing with the similar issue, is concerned, the same has not been disputed.

The Civil Court by dint of its order dated February 24, 2020, in the title suit as mentioned above has restricted registration of a particular kind of e-rickshaw manufactured with a particular kind of battery (Fuel Cell Battery).

By dint of the order by this Court dated February 16, 2022 in WPA 2070 of 2022, the Court directed the Transport Directorate, Government of West Bengal for granting registration to the e-vehicles manufactured by the petitioners therein, subject to the said vehicles/batteries being different and distinct from the category forming the subject matter of the suit before the Civil Court.

The difference is essentially on the basis of the battery characteristic and its component as used in the e-rickshaw vehicles. Whereas the Civil Court has restricted by an order of injunction, registration of e-rickshaws containing fuel cell battery, the High Court has directed for registration of the e-rickshaw containing battery of other kinds excepting fuel cell battery.

By virtue of the said order of the High Court in the said case and in many other cases, e-rickshaws have been registered which contain the other kind of battery, that is, lead acid battery.

Petitioners' vehicle can be considered in the following category, that is, lead acid battery. The petitioners have enclosed a certificate to that effect in the writ petition.

The same being different from the category of battery used in the e-rickshaws, registration of which has been enjoined by the Civil Court and also being of the similar kind of battery, registration which has been permitted by the High Court on earlier occasions, there would not be any impediment to allow the present writ petition.

Hence, the writ petition is disposed of with the direction upon the Transport Directorate, Government of West Bengal being the Respondent No. 3 to issue necessary direction upon the concerned regional transport offices to grant registration to the e-vehicles manufactured by the petitioners subject to the said vehicles being different and distinct from the category forming subject matter of the title suit pending before the learned Additional District Judge, 13th Court, Alipore, and

also subject to compliance with Rule 126 of the Central Motor Vehicles Rules, 1989 and all other formalities prescribed under the Act/Rules by the petitioners and also upon consideration of relevant documents to be placed by the petitioners before the authority.

The registering authority shall be at liberty to consider all relevant material regarding the pending proceedings in the title suit no. 27 of 2018, at the time of registration of the petitioners' e-vehicles.

The entire exercise should be completed within two months from the date of communication of this order.

With the above observations and directions the writ petition being WPA 17884 of 2023 is disposed of, along with connected application.

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.

(Rai Chattopadhyay, J.)