

January 31, 2023
ARDR
(210)

WPA 25731 of 2022
WPA 21621 of 2022
With
WPA 21440 of 2022
+
CAN 1 of 2022
With
WPA 21621 of 2022
+
CAN 1 of 2022

Gunjan Sinha @ Kanishk Sinha
Vs.
The State of West Bengal & Ors.

Adv. Gunjan Sinha @ Kanishk Sinha,
...petitioner in person in WPA 25731/22 and intervenor
in person in WPA 21440/22 & WPA 21621/22.

Adv. N. I. Khan,
Adv. Amlan Kumar Mukherjee,
...for the petitioners in WPA 21440/22 and WPA
21621/22.

Adv. Pantu Deb Roy,
Adv. Pannalal Bandyopadhyay,
...for the State in WPA 21621/22.

Adv. Amal Kumar Sen,
Adv. Ashima Das,
...for the State in WPA 25731/22.

Adv. Amal Kumar Sen,
Adv. Lal Mohan Basu,
...for the State in WPA 21440/22

Heard learned counsels for the parties.

The letter issued by the Special Secretary to the Government of West Bengal to the Director, Transport Directorate on 16th November, 2022 is assailed in the writ petition.

It is submitted on behalf of the writ petitioners that though the letter impugned has been issued in compliance with the order passed by this Court in WPA 21440 of 2022 and WPA 21621 of 2022 (wrongly recorded as WPA 996 of

2022), the said orders have not been strictly complied with in the letter.

The relevant portion of the letter dated 16th November, 2022 is set out:

“In inviting a reference to the above noted subject matter, I am directed to inform you that in the above mentioned court case, the registration of E-rickshaws may be done in favour of (i) M/s. A.N. Enterprise and (ii) Hooghly Motor Pvt. Ltd. with an undertaking that such vehicles are different and distinct from the vehicles forming the subject matter of Title Suit No. 27 of 2018 pending before the Ld. ADJ, 13th Court, Alipore and also subject to compliance with Rule 126 of Central Motor Vehicles Rules, 1989.”

In order to ascertain whether the said letter is in compliance with the orders passed in the writ petitions, the operative portion of the order in WPA 21440 of 2022 passed on 28th September, 2022 is set out:

“Accordingly, the writ petition is disposed of directing the Director, Transport Directorate being the 6th respondent herein to issue necessary direction upon the concerned Regional Transport offices to grant registration to the e-rickshaws manufactured by the petitioners subject to the said vehicles being different and distinct from the vehicles forming the 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 upon

consideration of relevant documents to be placed by the petitioners before the authority”.

The relevant portion of the order passed in WPA 21621 of 2022 on September 27, 2022 is also set out:

“In view of the observations made by the Hon’ble Division Bench, this Court is inclined to hold that the writ petition may be disposed of directing the respondents to consider registration of the vehicles manufactured by the petitioners subject to compliance with Rule 126 of the Central Motor Vehicles Rules, 1989 and upon taking into consideration all relevant documents to be produced by the petitioners at the time of registration.

Accordingly, the writ petition is disposed of directing the 5th respondent to consider registration of the e-rickshaws manufactured by the petitioners in terms of the order of the Hon’ble Division Bench as referred to earlier including compliance with rule 126 of the 1989 rules as well as production of relevant documents by the petitioners before the authority”.

It is evident from the letter impugned that the orders passed by this Court have not been complied with in their entirety.

In view of the above, the letter dated 16th November, 2022 is set aside.

The Special Secretary to the Government of West Bengal, being the 3rd respondent herein, is directed to issue a fresh letter to the Director, Transport Directorate, being

the 4th respondent herein, in strict compliance with the orders set out hereinabove.

Such exercise should be completed within four weeks from the date of communication of this order.

With the above observations and directions these writ petitions are disposed of.

As a consequence, the applications are disposed of.

However, there shall 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.)