

February 03, 2023
ARDR
(200)

WPA 25042 of 2022

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CAN 1 of 2022

Jadika Power Systems Pvt. Ltd.

Vs.

The State of West Bengal & Ors.

Adv. Basabraj Chakraborty,
Adv. S. Chaudhuri,

...for the petitioner.

Adv. Lipika Das Sinha,
Adv. Gunjan Sinha @
Kanishk Sinha

...Intervenor in person.

Adv. Amal Kumar Sen,
Adv. Lal Mohan Basu,

...for the State.

Re : CAN 1 of 2022

The applicant/intervenor seeks to be impleaded as a party respondent to the writ petition.

Upon consideration of the submission made on behalf of the parties, the application is allowed.

The intervenor/applicant be impleaded as respondent no.13 in the writ petition.

The cause title of the writ petition be amended accordingly.

The application being CAN 1 of 2022 is allowed.

Re : WPA 25042 of 2022

Heard learned counsels for the parties.

The notification issued on 14th July, 2022 is under challenge in the present writ petition. The said notification allows registration of e-rickshaws manufactured by Mahindra & Mahindra Limited.

It is submitted on behalf of the petitioner that the battery manufactured by the petitioner is lead cell battery which is distinct and different from the battery manufactured by the plaintiff in the title suit.

A co-ordinate Bench of this Court, in an order passed on 16th February, 2022 in WPA 2070 of 2022, has dealt with a similar issue and has directed the Transport Directorate, Government of West Bengal to instruct the concerned regional transport offices to grant registration to the e-vehicles manufactured by the petitioner therein subject to the said vehicles being different and distinct from the category forming the subject matter of the title suit.

The petitioners claim to be similarly circumstanced with the petitioner in the earlier writ petition since the battery manufactured by him is distinct and different from that of the battery which is the subject matter of the title suit.

The petitioners further submit that Rule 126 of the Central Motor Vehicles Rules, 1989 has been complied with by him.

Learned counsel for the added respondent seeks an order in terms of the order passed by the co-ordinate bench on 18th February, 2022 in modifying the earlier order passed on 16th February, 2022. The order passed on 16th February, 2022 was modified to the extent that the registering authority shall be at liberty to consider all the relevant materials with regard to the pending proceedings

in Title Suit No.27 of 2018 at the time of registration of the petitioners' e-vehicles.

Learned counsels for the parties consent to an order in the present writ petition in terms of the modified order passed by the co-ordinate Bench.

In view of the above, the writ petition is disposed of directing the concerned registering authority to grant registration of the e-vehicles manufactured by the petitioner 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 petitioner 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 petitioner's 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 this writ petition being WPA 25042 of 2022 is 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.)