

May 24, 2024
ARDR (18)

WPA 1284 of 2024

Ankit Agarwal
Vs.
The State of West Bengal & ors.

Adv. Arindam Das,
Adv. Priyanka Patra,
Adv. Sudipa Mandi,

...for the petitioner.

Adv. Pantu Deb Roy,
Adv. Subrata Guha Biswas,

...for the State.

Heard learned counsels for the parties.

In spite of being given sufficient opportunity, the respondents have failed to produce a scrap of paper before the Court to demonstrate that the vehicle in question was actually seized by the authority. Only a challan showing penalty of Rs.10,500/- on two charges, the vehicle plying without or invalid certificate of fitness and non-production of any document of the vehicle was slapped upon the petitioner. The petitioner is agreeable to pay the said amount of penalty for release of his vehicle. The petitioner seeks release of his vehicle on such terms.

Learned counsel for the petitioner submits that the respondents are verbally insisting upon payment of garage charges by the petitioner for detention of his vehicle in a private garage. The petitioner is not liable to pay such charges since the vehicle was not seized in accordance with law.

Learned counsel for the respondents places reliance of Section 207 of the Motor Vehicles Act, 1988 which authorises the respondents to seize and detain the vehicle in the prescribed manner and take necessary steps for temporary safe custody of the vehicle in the event the vehicle is being used in contravention of the provisions of section 3 or section 4 or section 39 or without the permit required by sub-section (1) of section 66 or in contravention or any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. Learned counsel also refers to a notification issued by the Transport Department, Government of West Bengal on 1st March, 2005, clause 10 of which demonstrates that the private custodian or the Government agency shall have the right to charge fees as shown in the schedule directly from the owners of the seized vehicle as detention charge at the time of release, against proper receipt. Learned counsel submits that computerized seizure list is being issued from 1st April, 2022.

The contents of a seizure list as mandated by a notification issued by the Transport Department, Government of West Bengal is produced by the learned counsel for the petitioner. The notification refers to certain details which a seizure list should contain:-

- “i) The authority before which you are required to appear.
- ii) General details of offences committed.

- iii) Date by which to appear.
- iv) Name and address of offender.
- v) Name and signature of the seizing officer.
- vi) Details of documents retained.”

In the present case, no seizure list in terms of the said notification has been produced by the respondents. Though the respondents submit that seizure list was signed by the driver of the vehicle, no such document has come before the Court. Also, the notification referred to by the learned counsel for the respondents as well as section 207 of the 1988 Act deals with seized vehicles. Herein, there is nothing to show that the vehicle was seized at all. It appears that the same was intercepted by the authority and detained by them without any proper seizure in terms of the Act or the notification.

In view of the above, this Court is inclined to hold that since the petitioner agrees to pay the penalty of Rs.10,500/- before the authority, the writ petition be disposed of directing the concerned authority, being the 2nd respondent herein, to release the vehicle of the petitioner bearing registration no. WB23D-3590 within twenty-four hours of the petitioner depositing the penalty amount of Rs.10,500/- before the authority. The said authority shall not be entitled to claim garage charges from the petitioner for the reasons discussed hereinabove.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been 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.)