

WPA 14434 of 2024

19.6.2024

ct.25, sl. 19
sk

Kanchan Das-vs-State of West Bengal & Ors..

Mr.N.I.Khan
Mr. Samiran Mandal
Mr. Abhinaba Dan
Ms. Sreemayee Dutta
...for the petitioner.

Mr. Pantu Deb Roy, ld. A.G.P.
Mr. Subrata Guha Biswas
.....for the State.

Affidavit of service filed by the petitioner is taken on record.

The petitioner is aggrieved with the impugned order dated January 18, 2024 passed by the Regional Transport Authority, Bankura. By dint of the same, the prayer of the petitioner for renewal of permit for the upgraded vehicle which he has placed at the time of such renewal, was turned down by the State authority. The reason or ground for such rejection has been stated to be under the provision of under Rule 153 (2) (ii) of the West Bengal Motor Vehicles Rules, 1989, which is one of the criterion, not to allow permit to a vehicle.

According to the respondent authority, the new upgraded vehicle, for which the renewal of the permit was sought for, differed in material respects with the old one.

Mr. Khan, learned advocate appearing for the writ petitioner has relied on the following four orders of the

various Co-ordinate Benches of this Court. He submits that the Court has already settled the law in this regard.

The judgments referred to are as follows:-

- (i) W.P. 26794 (W) of 2007 (Monorama Roy vs. The State of West Bengal & Ors.), judgment dated July 30, 2008;
- (ii) W.P. 5495 (W) of 2011 (Amit Kumar De vs. State of West Bengal & Ors.), order dated March 29, 2011;
- (iii) W.P.A. 966 of 2019 (Smt. Usha Sarkar & Anr. vs. The State of West Bengal & Ors.), order dated February 27, 2020;
- (iv) W.P.A 31 of 2020 (Shyamal Paul vs. The State of West Bengal & Ors.), order dated February 27, 2020.

It is submitted on the basis of the judgments as referred to, that the respondent/Regional Transport Authority, Bankura, would not be a competent authority under the law, to decide and frame any policy, guiding replacement of vehicles, on which could he founded any decision to discard a vehicle placed by the petitioner. The executive domain of the RTA, would not statutorily permit that. Also that, the Rule 153 (2) (ii) of the West Bengal Motor Vehicles Rules, 1989, being silent as to what would constitute the “material respects” or aspects

on which the application for replacement may be considered, it would not be within the power of the respondent RTA, to determine such difference, if any. Also that the Courts have found the provision under the said Rule 153 (2) (ii) of the West Bengal Motor Vehicles Rules, 1989, to be an unworkable one. He seeks an appropriate order in this case.

Mr. Deb Roy, learned advocate is appearing for the State respondent. According to him, the vehicle placed by the present writ petitioner would differ as regards the sitting capacity from that of the previous vehicle. Thus the decision has been taken by the respondent authority, regarding the same being not similar in “material respects” with the old one. Hence, in accordance with the provision under Rule 153 (2) (ii) of the West Bengal Motor Vehicles Rules, 1989, the competent authority has declined to grant permit. Mr. Deb Roy insists that no illegality can be found in the alleged impugned action of the respondent authority in issuing the order of rejection to grant renewal of permit, dated January 18, 2024.

Upon perusal of the earlier orders of this Court as relied on by the writ petitioner, the Court in this case, is of the opinion that as regards the applicability of Rule 153 (2) (ii) of the West Bengal Motor Vehicles Rules, 1989, the law has been sufficiently interpreted and settled by various judgment of this Court, as mentioned

above. Apparently, while deciding in the impugned order dated January 18, 2024, the respondent authority has not taken into consideration any of the said judgments.

Therefore, the order passed by the respondent dated January 18, 2024, has not been in conformity with the law, now well settled, vide the Court's orders, as mentioned above.

Accordingly, this Court is of the considered opinion that the impugned order dated January 18, 2024 be set aside and the respondent/Secretary, Regional Transport Authority, Bankura be directed to decide upon the matter afresh, after taking into consideration the law settled vide judgments, as referred to in this case, by the writ petitioner.

In doing so, the concerned authority shall afford opportunity of hearing to the writ petitioner and allow him for submission of document as necessary.

A reasoned order shall be passed by the concerned respondent authority as above, as regards the prayer of the writ petitioner for grant/renewal of permit with respect to his newly placed upgraded vehicle, within a period of four weeks from the date of communication of this order. The petitioner shall be informed with a copy of the order passed, within one week, from the order date.

Since no affidavit-in-opposition has been called for in this case, all allegations made in this writ petition are

deemed to have been denied by the concerned respondent.

W.P.A No. 14434 of 2024 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rai Chattopadhyay, J.)