

WPA 16151 of 2024

**Debasis Mondal
Vs.
State of West Bengal & Ors.**

**Mr. Arkadipta Sengupta,
Ms. Aayushi Mukherjee.
... for the petitioner**

**Mr. Pantu Deb Roy, ld. A.G.P.,
Mr. Sanatan Panja.
... for the State**

1. Affidavit-of-service filed in Court today is taken on record.
2. The petitioner's application for renewal of permit being Permit No. P.St.P. No. 12/2007 in respect of Vehicle No. WB15B 0378 dated February 16, 2024, is kept pending for consideration and decision, before the appropriate authority.
3. The petitioner seeks early disposal of the same and grant of permit to him in lieu of him complying with all necessary statutory formalities.
4. The brief factual background of the present case may be stated as follows.
5. The department earlier refused to grant fitness certificate to the vehicle of the writ petitioner on the ground of its being more than fifteen years old. The writ petitioner had challenged the order before this Court. The grounds pleaded by the writ petitioner at that point of time were that since the embargo for plying the vehicle registered more than fifteen years ago, was applicable within the Kolkata Metropolitan Area only and the writ petitioner has been plying

beyond the Kolkata Metropolitan Area, that the said embargo could not have been made applicable in his case.

6. The petitioner could obtain a favourable order from the Court as the Court directed in WPA no. 18942 of 2021 vide order dated January 20, 2022, as follows:-

“Upon hearing learned counsel, this Court is of the view that since the petitioner admittedly does not fall within the KMA, the impugned order and the concerned Notification of 13th August, 2012 do not apply to the petitioner.

The State respondents are, therefore, directed to make necessary corrections on the portal so as to modify the status of the petitioner. The NIC is also directed to render assistance to the State respondents in this regard.”

7. Subsequently, on February 22, 2024 Certificate of Fitness was issued in favour of the writ petitioner's vehicle.
8. Mr. Arkadipta Sengupta, learned counsel appearing for the writ petitioner submits that the petitioner could apply for renewal of permit, only after obtaining the Certificate of Fitness and, thus, he could not comply for sufficient reasons with the provisions under Section 81 (2) of the Motor Vehicles Act, 1988.
9. However, according to the petitioner, since the petitioner making the application for permit at a belated stage is *bona fide* and for sufficient reason,

the same should immediately be considered by the concerned respondent authority and his client should be granted permit.

10. Mr. Pantu Deb Roy, learned counsel, appearing for the State who insists for a direction be issued upon the concerned respondent to consider and dispose it of.

11. It is necessary to see to the statutory provision as regards the grant of permit.

12. Section 81 of the Act of 1988 provides for “*duration and renewal of permits*”.

13. Section 81 (2) of the Act of 1988 provides as follows:-

“Section 81 :- Duration and renewal of permits.

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(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.”

14. It is necessary to take into account the provisions of Section 81 (3) of the said Act, which is as follows:-

“Section 81 :- Duration and renewal of permits.

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(3) Notwithstanding anything contained in sub-section (2), the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.”

15. Considering the case of the petitioner, it appears that earlier petitioner’s application for fitness certificate of the vehicle was turned down by the authorities, though unjustly in so far as the petitioner could not have been considered to be guided under the relevant provisions of the notification, setting embargo for a vehicle of more than fifteen years old, to be plied beyond the area of Kolkata Metropolitan Area.

- 16.** Pursuant to the Court's order dated January 20, 2022, the authorities ultimately had issued the Certificate of Fitness.
- 17.** The petitioner could only apply for grant of permit after February 16, 2024, only after the vehicle was granted a Certificate of Fitness. Therefore, the reason as to why the petitioner could not have approached the concerned authority within the statutorily prescribed time limit as per Section 81(2) of the Act of 1988, is principally and basically the inaction by the concerned authority, in due process. The same has acted as a deterrent factor, for the writ petitioner, as to why he could not maintain the statutory time limit for applying for renewal of permit. It has been beyond control of the petitioner. Hence, the same should be and is considered to be a sufficient reason for delay by the petitioner in applying for renewal of permit. These circumstances make the provisions under Section 81 (3) squarely applicable, in case of the present writ petitioner.
- 18.** This should prompt the authorities to consider his prayer in the light of the provisions as enumerated in Section 81 (3) of the Act of 1988.
- 19.** With the observations as above, which the concerned respondent authority shall take into account while complying with this order, the writ petition is being disposed of with the following directions:-
 - (i).** The petitioner's application for renewal of permit dated February 16, 2024 shall be considered and disposed of by the respondent no. 3, after

granting opportunity of hearing to the writ petitioner and by dint of a reasoned order.

(ii). The entire exercise as above shall be concluded within a period of four weeks from the date of communication of copy of this order.

(iii). The order of the respondent no. 3, so delivered, shall be informed to the writ petitioner within one week thereafter.

20. Since no affidavits are called for, allegations made in the writ petition, are deemed to have been denied by the respondents.

21. This writ petition being WPA No. 16151 of 2024 is disposed of, along with the pending applications, if any.

22. Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)