

WPA 17387 of 2024

Allied Auto Wheel Siliguri Pvt. Ltd. & Ors.

-vs-

The State of West Bengal & Ors.

7.8.2024

Mr. N.I.Khan

Mr. Amlan Kr. Mukherjee

...for the petitioners.

ct.25, sl. 12
sk

Mr. Pantu Deb Roy, Id, A.G.P.(through Video Conference)

Mr. Pannalal Bandopadhyay

...for the State.

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

The matter relates to refund of the penalty amount as was charged against the writ petitioner on the allegation of the vehicle having been unauthorizedly and illegally altered including its components.

Mr. Khan, learned advocate appearing for the writ petitioner has taken this Court through the annexed documents. He submits that after purchase of the vehicle, the petitioner i.e. dealer thereof has rendered the same to the builders, namely, Rajasthan Coach Builders Private Limited, for works to be done on the outer surface of the vehicle.

The CIRT certificate has been annexed to the writ petition along with other statutory forms and the tax invoice. On the basis of the same it has been submitted that, all statutory formalities have been duly complied with as regards the said vehicles.

It is alleged that at the time of the said vehicles being returned to the State of West Bengal, the State authority has illegally imposed fine to the tune of Rs. 1, 00,000/- against each of those vehicles on the ground of “unauthorized alteration”, by the ARTO, Islampur. The fine was imposed invoking power under Section 182(a)(1) of the Motor Vehicles Act , 1988. The relevant date was 9th November, 2023.

Mr. Khan has further stated that subsequently both the vehicles were sold to the two purchasers, namely, Manoj Sha and Abhishek Dutta and the respective purchasers have registered the vehicles from the concerned registering authority, in their respective names.

It is argued that at the time of registration of the vehicles, the concerned authority has not noted about any alleged “unauthorised alteration” having been made by the dealers to the said vehicles.

Accordingly, the writ petitioner /dealer of the vehicles, has contended that the allegation on the basis of which he remitted the fine amount on protest, has not been substantiated later on by dint of any observation of the concerned registering authority.

Accordingly, the petitioner has contended that he is eligible for refund of the said fine amount already submitted by him under protest. In this regard, the

petitioner has raised his grievance by dint of a letter dated 16th December, 2023. It is contended further that in spite of the authority having heard the writ petitioner with regard to the said letter dated 16th December, 2023, the decision thereof has not yet been communicated to the writ petitioner.

Mr. Deb Roy, learned advocate is appearing for the State respondent through video conference.

Mr. Deb Roy has relied on the provision of Section 43 of the Motor Vehicles Act, 1988 and the relevant provision of the Central Motor Vehicles Rules. He submits that the writ petitioner's alleged action is in contravention of the provisions of law as above. Accordingly, there has not been any illegality or impropriety of the concerned authority to impose the fine and realize the same from the writ petitioner. In reply to the submissions made on behalf of the State by Mr. Deb Roy, Mr. Khan has relied on the provisions of Section 39 proviso of the Motor Vehicles Act as well as Rule 33 of the Central Motor Vehicles Rules, 1989. He submits that according to the same, the dealer shall not be required to obtain the temporary licence for the vehicle.

Be that as it may, the authority has already considered the petitioner's representation dated 16th December, 2023 seeking refund of the penal amount already submitted by the writ petitioner on protest.

Let this writ petition be disposed of directing the ARTO, Islampur to immediately dispose of the application of the writ petitioner dated 16th December, 2023 by dint of a reasoned order in accordance with law and inform the decision to the petitioner, within one week after that.

The exercise as above shall be concluded by the concerned ARTO, Islampur, within a period of 15 days from the date of communication of this order.

The writ petition 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.)