

16.01.2024
Sl. No.05
Suman
Ct.No.238.

WPA 18554 of 2023

Smt. Sumita Samanta
Vs.
The State of West Bengal & Ors.

Mr. Sattwik Bhattacharya
Mr. Aashutosh Bhattacharyya
Mr. T. Niyogi
 ..for the petitioner
Mr. Pantu Deb Roy
Mr. Subrata Guha Biswas
 ...for the State

Let the affidavit filed by the State be kept with the records.

By filing this writ petition the petitioner has challenged a communication dated July 10, 2023 whereby the State Transport Authority, West Bengal declined to countersign the Inter State Stage Carriage Permit of the petitioner integrated with replaced Bharat Stage-III pollution norms compliant (in short 'BS-III vehicle') bearing registration no.JH-09AB-5203 in the inter-state route from Madhupur to Raniganj. It is an admitted position that the petitioner's relevant permit was valid till February 17, 2026. The petitioner sought to replace her old BS-III vehicle bearing registration no. JH-11F-6627 with the aforesaid BS-III vehicle by an application dated May 17, 2023.

It is also not in dispute that the said replacement was allowed by the State Transport Authority, Jharkhand by an order dated May 17, 2023.

The only reason based on which the countersigning authority of the State of West Bengal declined to countersign the permit is a resolution adopted on December 8, 2022 by the State Transport Authority, West Bengal.

The resolution reads as follows:-

- “1. Henceforth no new Interstate Permit and replacement of vehicle will be counter-signed if the vehicle does not possess pollution norms less than BS-IV.*
- 2. Last date of receiving application for placement in agenda of the STA’s Board Meeting should be the last date of the penultimate month.”*

In my view, the said resolution cannot stand in the way of countersigning the relevant permit of the petitioner in view of the two subsequent successive notifications issued by the Transport Department of the State of West Bengal relating to the guidelines for registration of permit of vehicle in terms of pollution norms.

The relevant part of the first notification dated March 01, 2023 is quoted below:-

B. Permit: Issuance, Renewal and Replacement:

- a.....
- b.....

c. Replacement of vehicle should be encouraged to be made by higher model vehicle or at least by similar technical specification including BS norms/age of the existing vehicle, in compliance to this order in terms of Rule 153 of WBMVR, 1989 subject to decision of respective Transport Authority.”

In the similar way again, the Transport Department, Government of West Bengal issued another notification dated June 02, 2023.

The relevant part of the said notification reads as follows:-

B. Permit: Issuance, Renewal and Replacement:

a.....

b.....

c. Replacement of vehicle should be encouraged to be made by higher model vehicle or at least by similar technical specification including BS norms/age of the existing vehicle, in compliance to this order in terms of Rule 153 of WBMVR, 1989 subject to decision of respective Transport Authority.”

The aforesaid two notifications issued by the State Transport Department, Government of West Bengal, permit replacement of a vehicle by a vehicle with similar technical specification including BS norms.

Since the petitioner sought to replace her BS-III vehicle with another BS-III vehicle, the case of the petitioner is clearly covered by the clause (c) of the aforesaid two notifications as quoted above.

In view of the matter, the communication dated July 10, 2023 is set aside. The countersigning authority being the State Transport Authority of the State of West Bengal shall countersign the relevant permit for the period as allowed by the State Transport Authority, Jharkhand.

Such exercise should be completed within a period of two weeks from the date of communication of this order.

Accordingly, **WPA 18554 of 2023** is **allowed.**

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)