

20.9.2024

Raju Chawbey.-vs-The State of West Bengal & Ors..

Ct 24,sl. 7
,sk

Mr. Sankar Nath Mukherjee
Mr. Niraj Gupta
Ms. Manisha Paswan
...for the petitioner.

Mr. Pantu Deb Roy, Ld. AGP
Mr. Pannalal Bandopadhyay
...for the State

1. The petitioner is aggrieved that his application for renewal of permit has not yet been considered by the State Transport Authority/respondent no.2.
2. Hence, this writ petition.
3. Mr. Mukherjee appearing for the petitioner has submitted that the writ petitioner was initially granted permit being P.st.P.No. 167/04(I/R) for the route Barrackpore to Howrah. The said permit was valid till May 7. 2019.
4. On September 29, 2019, the petitioner made an application for renewal of permit along with requisite fees which was duly received in the office of the said respondent but never responded to.
5. A writ petition was filed before this Court, challenging such inaction. However, the same was dismissed for default.
6. Mr. Mukherjee further submits that subsequently on July 1, 2024, the petitioner has made another prayer before the State Transport Authority requesting for renewal of his permit.

- 7.** It is alleged that such application is not being accepted by the respondent authority as well as not being acted upon though in terms of the statutory provisions, there would not be any outer limit of time, to pray for renewal of permit. It is submitted that the petitioner has been, for sufficient reason, restrained to submit his such prayer within the statutory period of time as envisaged in Section 81(2) of the Motor Vehicles Act, 1988.
- 8.** Therefore, Mr. Mukherjee says that there would not be any cogent, justifiable or legal ground for the respondent authority not to entertain the prayer of the petitioner as above. He seeks necessary order be passed in this case.
- 9.** Mr. Deb Roy, learned advocate is appearing for the State Transport Authority. He submits that since with regard to a belated application for renewal, the respondent authority has discretion to consider the same, necessary order may be passed in this case.
- 10.** The petitioner was earlier granted permanent stage carriage permit, validity which has expired on May 7, 2019. His first application for renewal was on September 29, 2020, though not acted upon. His latest application seeking renewal of his permit as mentioned above, is by dint of his letter dated July 1, 2024.

11. Though the statute has provided for specific time period within which the prayer of the permit holder for renewal of permit is to be made, that is under Section 81(2) of the Motor Vehicles Act, 1988, an exception thereof has been carved out, in the following sub-section thereof, i.e. Section 89 (3), of the Act of 1988. The same has provided that the authority, if satisfied with the sufficiency of the reason for which the petitioner could not come before the authority with his prayer for renewal of permit within the time period specified under Section 81 (2) of the Motor Vehicles Act, 1988, would exercise its discretion, as to the sufficiency of the reasons of delay shown by the applicant and take decision regarding renewal of permit. In such view of the legal provision, this Court finds no impediment in allowing the petitioner's prayer in this case.

12. Hence, the present writ petition being WPA 19808 of 2024 is allowed with the following directions:-

- i) Let the respondent no. 2 consider the petitioner's representation dated July 1, 2024 after affording an opportunity of hearing to the petitioner and dispose of the same by dint of a reasoned order.
- ii) The exercise as above shall be concluded by the said respondent no. 4, within a period of

three weeks from the date of communication
copy of this order.

- iii) Result thereof, shall be informed to the writ
petitioner within one week after the order.

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

(Rai Chattopadhyay, J.)