11.9. 2024
item No.10
n.b.
ct. no.24

WPA 20753 of 2024

Shailendra Kumar Singh
Vs.
State of West Bengal & Ors.

Mr. Ranajit Roy,
Md. Quasim Hashmi
..... for the petitioner.
Mr. Rajarshi Basu,
Mr. Ananda Dulal Sarkar,
...... for the State.

The present petitioner is a registered owner of passenger bus bearing no.BR30PA1855, which was registered with the Department of Transport, Government of Bihar. It is the case of the petitioner that the petitioner has applied for special permit to ply the vehicle from Gopalganj in Behar to Trapath(West Bengal). The Transport Department, Chapra, Government of Bihar has issued the special permit on August 3, 2023 and it was valid till August 9, 2023. When the vehicle entered into the State of West Bengal, RTA Purba Burdwan intercepted the vehicle and issued an E-challan for total amounting to Rs.10,001/-. The necessary documents of the vehicle were seized and kept under the custody of the concerned department. The petitioner has submitted an application to the learned CJM, Purba Burdewan to return those seized documents. One report is called for by the learned

CJM from the RTA. The RTA has submitted a report before the CJM, Purba Burdwan wherein it appears that a huge amount of money for non-payment of tax and additional tax was imposed upon the present petitioner. Hence this writ petition.

Learned counsel for the petitioner submits that there was an reciprocal agreement between the State of Bihar with the State of West Bengal, where was enumerated when a special permit is allowed in respect of a vehicle, the said vehicle cannot be intercepted due to non-payment of tax. He further submits the E-Challan amounting to Rs.10,001/- is required to be quashed.

Learned Counsel appearing on behalf of the State authority produces that the necessary notification regarding reciprocal agreement between the State of West Bengal as well as Bihar. He also mentioned that the portion of tax in the said notification dated May 16, 2014 has been pointed out in the agreement as follows:

"E(1) permits issued under the provisions of this agreement shall be subject to the provisions of the Motor Vehicles Act, 1988. This shall also be subject to the Rules and Regulations for correction of taxes/additional taxes/fees as may be in force from time to time in the respective reciprocating States."

By citing this provision, learned counsel for the state authority submits that the imposition of tax and additional tax by the authority concerned is not at all illegal in the eye of law. Moreover, as per provisions of Section 9 West Bengal Motor Vehicles Tax Act 1979. Satisfactory appeal is available against imposition of tax is applicable.

Having heard the submission of learned counsel for the parties and also considering the prayer in the writ petition, it appears to me that the question raised before this writ court may very well decided by the concerned authority whether. The amount of tax as imposed upon the present petitioner is according to the provisions of law or not, can only be decided by the concerned authority.

At this juncture, the petitioner is directed to submit a representation before the appropriate authority for required relief. On such representation, the appropriate authority shall consider his prayer by passing a reasoned order after awarding opportunity of being heard to the petitioner. The appropriate authority shall dispose of the representation within eight weeks from date of representation or within that period as prescribed in the statute itself. The authority must inform the decision to the petitioner within two weeks thereafter.

Under the above observation, the writ petition is disposed of.

In deciding the issue, the learned appropriate authority shall not cumbered themselves on the point of the limitation, in deciding the representation if it is filed within three weeks from date.

Since no affidavit has been exchanged the allegation made in the writ petition shall be deemed to have been not admitted.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)