

WPA 27178 of 2024

22.11.2024

ct.25, sl.9
sk

M/s. Anick Traders & Anr.
vs
State of West Bengal & Ors.

Mr. N.I. Khan
Mr. A.K.Mukherjee
...for the petitioner.

Mr. Pantu Deb Roy, ld. AGP
Mr. Subrata Guha Biswas
...for the State.

Mr. Sankar Nath Mukherjee
Mr. Niraj Gupta
Ms. Manisha Paswan
.....for the respondent no. 6.

Affidavit of service filed in Court today is taken on record.

The subject matter of the writ petition is with regard to non issuance of the certificate of registration to the e-rickshaw vehicles manufactured by the writ petitioners.

The reason for refusal for grant of such registration of e-rickshaw vehicles of the petitioners by the respondent authority is an order of injunction passed by the Additional District Judge, 13th Court, Alipore dated 24th February, 2020 in Title Suit No. 27 of 2018 regarding registration of battery operated eco-friendly e-rickshaws.

The impugned memos have been issued in the year 2022. The memo dated January 13, 2022 restricts registration of battery operated eco-friendly e-rickshaw, in terms of the order passed in the title suit as mentioned above.

The memo dated July 13, 2022 allows registration of e-rickshaws manufactured by M/s Mahindra & Mahindra Limited.

Learned advocate Mr. N.I.Khan appearing for the writ petitioners submits, that the decision taken by the

authorities vide the impugned memo dated July 13, 2022 shall squarely apply in case of the present petitioners. Hence, he says that there would not be any impediment for the respondent authority to register the said battery operated e-rickshaws.

Learned Advocate Mr. N.I.Khan appearing for the writ petitioners has also indicated that on several occasions earlier in similar cases, the Court has granted relief to the petitioners. Hence, it urged that the present writ petition be similarly dealt with.

Learned Additional Government Pleader, Mr. Deb Roy is representing the State. So far as the decision of this Court earlier in other writ petitions dealing with the similar issue, is concerned, the same has not been disputed.

The patent holder/respondent no. 6, is being represented by Mr. Sankar Nath Mukherjee.

Mr. Mukherjee, submits by referring to a decision of this Court dated April 21, 2017 in W.P.No. 11061 (W) of 2017 that the Court directed therein for the necessity of being satisfied about the difference of the vehicle with respect to the technical use for running of the same.

He has relied on the said order of the board and seeks an appropriate order to be passed in this case.

The Civil Court by dint of its order dated February 24, 2020, in the title suit as mentioned above has restricted registration of a particular kind of e-rickshaw manufactured with a particular kind of batter (Fuel Cell Battery).

By dint of the order by this Court dated February 16, 2022 in WPA 2070 of 2022, the Court directed the Transport Directorate, Government of West Bengal for granting registration to the e-vehicles manufactured by the petitioners

therein, subject to the said vehicles/batteries being different and distinct from the category forming the subject matter of the suit before the Civil Court.

The difference is basically on the basis of the battery characteristic and its component as used in the e-rickshaw vehicles. Whereas the Civil Court has restricted by an order of injunction, registration of e-rickshaws containing fuel cell battery, the High Court has directed for registration of the e-rickshaw containing battery of other kinds excepting fuel cell battery.

By virtue of the said order of the High Court in the said case and in many other cases, e-rickshaws have been registered which contain the other kind of battery, that is, lead acid battery.

Petitioners' vehicle can be considered in the following category, that is, lead acid battery. The petitioners have enclosed a certificate to that effect in the writ petition.

The same being different from the category of battery used in the e-rickshaws, registration of which has been enjoined by the Civil Court and also being of the similar kind of battery, registration which has been permitted by the High Court on earlier occasions, there would not be any impediment to allow the present writ petition.

Hence, the writ petition is disposed of with the direction upon the Transport Directorate, Government of West Bengal being the Respondent No. 3 to issue necessary direction upon the concerned regional transport offices to grant registration to the e-vehicles manufactured by the petitioners subject to the said vehicles being different and distinct from the category forming subject matter of the title suit pending before the learned Additional District Judge, 13th Court,

Alipore, and also subject to compliance with Rule 126 of the Central Motor Vehicles Rules, 1989 and all other formalities prescribed under the Act/Rules by the petitioners and also upon consideration of relevant documents to be placed by the petitioners before the authority.

The registering authority shall be at liberty to consider all relevant materials regarding the pending proceedings in the title suit no. 27 of 2018, at the time of registration of the petitioners' e-vehicles.

The entire exercise should be completed within two months from the date of communication of this order.

With the above observations and directions the writ petition being WPA 27178 of 2024 is disposed of.

Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

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

(Rai Chattopadhyay, J.)