

22.11.2024.
PB
Sl. No.97.
Ct. No.25.

WPA 28860 of 2023

Manjit Singh & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Sankar Nath Mukherjee,
Mr. Sk. Shamim Akhter,
Mr. Saikat Pal.

... For the Petitioner.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.

... For the State.

- 1) The present writ petition is directed against the order of the Secretary, STA West Bengal, dated October 10, 2023.
- 2) Before coming to as to why the petitioners are aggrieved against the said order, the chequered history of the case may be summarized in a nutshell, as stated hereinbelow.
- 3) The petitioner No.2 applied for transfer of his permit to the petitioner No.2. Decision was taken in the STA Board meeting dated March 17, 2017, to allow such transfer, on two conditions (i) firstly, that the transfer is to be made within the validity period of the said permit, that is within November 1 2017 and (ii) secondly, that the vehicle should be compatible with the prevalent pollution norms.
- 4) But the transfer of permit was not made effective within the validity period of the permit, by complying with the said two conditions. Instead, the

petitioner No.2 had applied for renewal of the permit on October 18, 2017, that is adequately priorly, as per the statutory provision and along with the appropriate statutory fees. His such application was allowed and the permit was renewed up to November 1, 2022.

- 5) Later, on September 9, 2022, the petitioner No.2 had applied for renewal as well as transfer of the permit and replacement of the vehicle with another BS-III complied vehicle.
- 6) During pendency of such applications being filed by the present petitioners, the STA Board West Bengal, in its meeting dated December 8, 2022, has decided that no new interstate permit and replacement of vehicle will be countersigned if the vehicle does not possess pollution norms less than BS-IV.
- 7) Eventually, a writ petition was also filed by the present petitioner No.1, impleading the petitioner No.2, as the party-respondent therein, being W.P.A No. 11048 of 2023. The Court has held in the same, vide its order dated August 30, 2023, that the resolution of the Board dated December 8, 2022, would not be applicable in case of the renewal applications by the present petitioners, the same being only prospective and not having any retrospective effect. The respondent was directed to consider the petitioner's application as above, in the light of the above observation of the Court.
- 8) The resultant order is dated October 17, 2023, which is impugned in the present case.
- 9) The Secretary STA West Bengal, in the impugned order dated October 17, 2023 has held that as the

permit of the petitioner No.2 could not be transferred within the period as stipulated, by complying with the conditions as prescribed and subsequently the same has been renewed on the application of the holder thereof, the earlier decision for transfer of the permit by the STA West Bengal, would stand void. Mr. Mukherjee, learned counsel for the petitioner, challenges such finding at the outset. He would say that a quasi-judicial authority would be bereft of any power to review its own order. He would say that the decision of the Board dated March 17, 2017, would stand irrespective of any renewal order being granted by the said respondent authority, with respect to the said permit.

- 10) Mr. Mukherjee would further say that vehicles with BS-III auto emission norms were restricted by the STA Board, in case of grant of countersignature, in an inter-state permit and not for grant of permit itself, as mentioned in the impugned order. Therefore, according to him there would not be any impediment for the said authorities, to transfer the permit of the writ petitioner by allowing replacement of the old vehicle with a BS-III complied vehicle. He would say further that application of the said decision of the Board in case of the present petitioners for considering their prayer for transfer of the permit has been erroneous, unjust and unlawful. He would seek setting aside of the order of the Secretary, STA West Bengal, dated October 17, 2023 and other appropriate orders for the writ petitioners.
- 11) Mr. Deb Roy while representing the State respondent, has, however, raised strong objection as regards the prayer of the petitioner. He would say

that STA Board in its resolution dated March 17, 2017 has resolved and directed for transfer of permit of petitioner no.2 in favour of petitioner no.1 within the validity period of the said permit. He would submit that the validity period of the said permit would expire without the petitioners having taken any steps as per direction of the STA Board for replacement of the vehicle etc. Therefore, due to non-fulfilment of the norms as directed by the STA Board, as a pre-condition for transfer of permit, the process of transfer of permit within the validity period of the said permit could not be completed. He would further say that after expiry of the validity period of permit, the order of the STA Board vide its resolution dated March 17, 2017, would automatically be redundant and have no further effect.

- 12) Mr. Deb Roy would dispute and deny that by dint of its order dated October 17, 2023, the respondent/ Secretary, State Transport Authority, West Bengal, has revisited and reviewed the earlier decision of the Board as mentioned above. By referring to the said order, he would further say that the petitioner no.2 before expiry of the validity period of the permit has made application for renewal of permit along with fees and the permit has been renewed in favour of the respondent no.2 in accordance with law.
- 13) Mr. Deb Roy would seek that the writ petition may be dismissed.
- 14) The issue involved in the present case is whether the decision of the STA Board in its order dated March 17, 2017, directing the transfer of permit of petitioner no.2 in favour of petitioner no.1, would die a natural death, after expiry of the period of

validity of permit, within which the Board directed for completion of the process of transfer of permit, by placing vehicle registered in the name of the transferee.

- 15) The law is settled as submitted by Mr. Mukherjee that the quasi judicial authority would not be authorized or permitted generally to review its own order. The judgment referred to by Mr. Mukherjee in this regard which would discuss about the said settled position of law, may be relied on in this regard.
- 16) However, considering the facts and documents in this case, this Court is of the opinion that the impugned order of the respondent/Secretary, STA, West Bengal is not in the nature of review of the order of the Board earlier passed on March 17, 2017.
- 17) On perusal of the resolution of the Board, as above, it clearly transpires the Court granted permission for transfer of permit from petitioner no.2 in favour of petitioner no.1, subject to the condition that such transfer should be effected within the validity period of the said permit and also subject to the fact that the transferee should own vehicle compatible with the prevalent pollution norms. During the validity period of the said permit, no such vehicle could be produced by the petitioner no.1. This fact is undisputed in this case.
- 18) Accordingly, I find force in the submissions made by Mr. Deb Roy that the direction as granted by the STA Board dated March 17, 2017, automatically becomes repugnant after expiry of the validity period of the said permit itself.

- 19) On consideration as above, I do not find any impropriety and illegality of the Secretary, STA, West Bengal in its order dated October 10, 2023. However, for the ends of justice, the Court is inclined to direct the petitioners to apply afresh, for transfer of permit now held by the petitioner no.2, in favour of petitioner no.1.
- 20) Accordingly, the respondent nos.2/3 & 4 are directed to consider such application of transfer of permit of the petitioner no.2, in favour of petitioner no.1, if any, in accordance with law, within a period of six weeks from the date of filing of the application to that effect by the petitioners. In doing so, the respondent authority shall grant an opportunity of hearing to the petitioners and pass a reasoned order in case the same is not inclined to allow the petitioners' prayer. In that case, the order shall be communicated to the petitioners within one weeks from the date of the order.
- 21) The writ petition is disposed of.
- 22) Since no affidavits have been called for, allegations made in the writ petition, are deemed to have been admitted by the respondent.
- 23) Urgent certified photocopy of this order, if applied for, shall be supplied to the parties, on compliance of all necessary formalities.

(Rai Chattopadhyay, J.)