

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Present:

The Hon'ble Justice Rai Chattopadhyay

WPO/1027/2024

KOUSHIK GLOBAL LOGISTICS LIMITED AND ANR.
VS
STATE OF WEST BENGAL & ORS.

For the Petitioner

: Mr. Sattwik Bhattacharyya, Adv.
: Mr. Ashutosh Bhattacharyya, Adv.
: Mr. Aritra Roy, Adv.

For the State

: Mr. Amal Kr. Sen, Adv.
: Ms. Sahina Sumi, Adv.

Heard on : 07/11/2024

Judgment on : 07/11/2024

Rai Chattopadhyay, J. :-

1. The petitioners have been enjoying two permits bearing no. PStP 01/15 (on the Inter-State Route Kolkata to Ranchi) and 05/15 (on the Inter-State Route Howrah to Ranchi). The said two permits were valid upto 1st February, 2020 and 18th February, 2020, respectively.
2. Admittedly, the writ petitioners did not apply for renewal of permits, within the stipulated statutory period of time.
3. Mr. Bhattacharya, appearing for the petitioners, has indicated the reasons therefor to be the break out of pandemic in the year 2020.

4. Ultimately, by dint of its order dated 22nd August, 2024, the STA, West Bengal has cancelled the said two permits of the writ petitioners. Hence, being aggrieved by the same, the writ petitioners have moved the present case before this Court.
5. Mr. Bhattacharya, appearing for the petitioners, has indicated that, though not within the stipulated time, the petitioners had made their application for renewal of permit subsequently on 5th April, 2023. He would refer to the relevant provision of the Motor Vehicles Act, 1988, i.e., Section 81(3) thereof, to submit that the petitioners being prevented by the good and sufficient cause, due to break out of pandemic and state wise lockdown, would be entitled to get their application for renewal considered and allowed by the State Transport Authority, under the said provision of law.
6. Mr. Bhattacharya would further say that the said application for renewal of permit by the writ petitioners has remained unattended and never considered by the respondent State Transport authority. He would further refer to the Board resolution to submit that the petitioners' prayer for placing of new vehicle, has also been declined by the Board.
7. Furthermore, representation of the writ petitioners dated 24th May, 2024 has also not been considered by the respondent State Authority, he would submit. Instead the impugned order dated 22nd August, 2024 has been passed cancelling the permits of the writ petitioners, which is not only prejudicial to the interests of the petitioners but also in contravention of the statutory provisions, to the legal rights of the

writ petitioners too. Under such circumstances, Mr. Bhattacharya would insist that necessary order for appropriate redress of the grievance of the petitioners, may be passed in this case.

- 8.** Mr. Sen is representing the State respondent. He would firstly say that the writ petitioners have never been genuinely interested and intended to either replace the vehicles or renew their permits and the present case is baseless. Mr. Sen would say by referring to the documents annexed to the writ petition, that the petitioners were given opportunity of hearing in the meeting of the Board dated 24th May, 2022, but since thereafter the petitioners have not turned up with any positive approach to show their genuine intention to keep the permits valid and operate on the basis of the same, by renewal of it and replacing vehicles, in place of the 15 years old vehicles, which were being operated in the route. He would refer to the show cause notice issued to the petitioners dated 29th March, 2023 and submit that, since after the Board meeting dated 24th May, 2022, the petitioners have remained inert and silent, the respondent authority has issued such show cause notice to the petitioners.
- 9.** It is submitted further that in spite of expressing their desire to get the permits renewed, the writ petitioners have not produced before the authority the new vehicle with appropriate documentation. The vehicle, produced if at all, was bereft of any registration thereof in the name of the writ petitioners. Therefore, again a notice was issued to the writ petitioners on 23rd August, 2023. Ultimately in absence of any reply from the petitioners, the impugned order was passed by the

State Transport authority, on 22nd August, 2024, cancelling their permits.

10. Mr. Sen has also relied on an unreported judgment of this Court dated **26th September, 2024 (*Debarghya Dhar Mohapatra vs. The State of West Bengal & Ors.*)**, to submit that formal cancellation after expiry of the period of validity of the permit, for which no application for renewal has ever been placed, has been held to be an unnecessary and redundant exercise, the permit already being a 'dead permit' after the validity period and not being renewed.
11. By referring to the provision under Section 83 of the Motor Vehicles Act, 1988, he would say that replacement, if at all, of the vehicle by the petitioners is made, the same should be in terms of the statute insofar as the statute provides for replacement of a vehicle as against a valid permit and not against a permit, which has expired and not renewed thereafter. He would further say that fresh process has already been initiated by declaring the vacancy over the route. Therefore, for the reasons as above, according to the State respondent, there would not be any cogent reason in this case to entertain the prayer of the writ petitioners.
12. The petitioners have made endeavour to invoke his rights under section 81(3) of the Motor Vehicles Act, 1988. He says that the last date specified in section 81(2) of the said Act of 1988, that is, fifteen days prior to the date of expiry of the existing permit, for making an application for renewal thereof, is relaxable, pursuant to forming opinion and satisfaction by the Transport Authority, regarding the

petitioner having been prevented for good and sufficient cause. That, according to the petitioners, since for pandemic and lock down, broke out in the year 2020 and entire business as well as social activities were being stalled, they were not able to and prevented for sufficient cause, to seek for renewal of the permit. According to the petitioners, in terms of section 81(3) of the said Act of 1988, therefore, they would be entitled to have the permit renewed, even on an application filed beyond the statutory time limit.

- 13.** It is worth noting that the provision under section 81(3) is not a mandate but a directory provision, requiring exercise of discretionary power of the Transport Authority. According to the petitioners, their application for renewal of permit dated 5th April 2023, should have been considered and that too, favourably, by the respondent Authority.
- 14.** Now, the question is whether even in terms of section 81(3) of the said Act of 1988, the so-called right of the petitioner, to have his belated application for renewal of permit, filed after expiry of the permit validity and the statutory time limit for filing of such an application, would be perpetual, for all the time to come, or the Transport Authority would be entitled under the law, to exercise its discretion to assess, if due diligence is exercised by the permit holder, emanating from the genuine intention of him, to keep up operating in the specified route. Evidently, the law has rendered such discretionary power to the Authority, not to renew a permit, in an inappropriate

case. In the petitioner's case, therefore, the Authority refrains itself from allowing belated prayer for renewal of permit.

- 15.** The Court is also required to see, if the respondent Authority has acted within the parameters of reasonableness and justifiability, in not entertaining a belated prayer of the petitioner, for renewal of permit. The petitioner's permits expired on 1st and 18th February, 2020, respectively. Within fifteen days before the said respective dates, no application were filed seeking renewal of the permits. That is said to be due to the pandemic and lockdown. However, there is no justifiable reason shown by the petitioners as to what prevented them to even prefer an application, immediately after the pandemic period was over and the state wise lockdown was lifted. The petitioners were granted opportunity of hearing by the Board, in its meeting dated 24th May, 2022. Till then there was no application filed by them and not even thereafter, though the petitioner expressed in the said meeting regarding its desire to hold the permit, by renewing the same. In a very casual manner the petitioner had produced such a vehicle, which was not registered in his name. Hence, for obvious reasons, the Authorities could not accept the same, without proper documentation. Hence, show cause notice was issued against the petitioner on 29th March, 2023.
- 16.** The writ petitioner had replied to the same as well as prayed for renewal of his permit, by dint of his letter dated 5th April, 2023. Hence, since after the permit was rendered invalid due to efflux of time, the writ petitioner has never volunteered to hold his permit, by

renewing the same. Instead, his prayer for renewal is only in answer to a show-cause notice issued by the respondent Authority, which was also not followed up by him subsequently. Vehicle, ineligible for consideration due to lack of adequate documentation, was produced, till the date of submission of representation by it, that is till 24th May, 2024. No wonder that the respondent Authority would treat the permit of the petitioner as a non-est, after its validity period was over and without the petitioner volunteered, within a reasonable period of time, with just and sufficient reasons, justifying his coming up to pray for the renewal, after the statutory time period. Therefore, no illegality or irregularity can be found in the respondent's action, in not considering the petitioner's prayer for renewal of the permit.

- 17.** Otherwise also, this Court is in concurrence with the submission of Mr. Sen, Ld. AGP, for the State, that cancellation of an invalid permit, is an unnecessary and redundant exercise.
- 18.** Considering all as above the Court finds no merits in the present writ petition.
- 19.** Hence, writ petition No. WPO 1027 of 2024 is dismissed.
- 20.** Urgent certified website copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(RAI CHATTOPADHYAY, J.)