

WPA 4838 of 2025

21.4.2025

ct.25, sl. 22
sk

Avik Daw

vs

The State of West Bengal & Ors.

Mr. N.I.Khan

Mr. A.K.Mukherje

...for the petitioner.

Mr. Anand Farnania

...for the State respondent.

The writ petitioner being aggrieved with the alleged inaction of the respondent no. 5/Registering Authority, Public Vehicle Department, in registering his new vehicle/Chasis No. MB1PAECD2RACS8771, has filed the instant writ petition.

According to the writ petitioner, who is being represented by Mr. N.I.Khan learned advocate, there would not be any legal impediment for the said respondent, to register the petitioner's new chassis as above, on the contrary the said respondent would be obliged and duty bound to immediately register the petitioner's vehicle with the new chasis.

Mr. Khan says that the petitioner operates under a valid permit. The validity of his permit is up to May 15, 2026. In the meantime, the respondent authorities have considered and allowed the petitioner's prayer for replacement of the old chassis with a new one as above, by dint of its order dated November 11, 2024. Accordingly, the petitioner has taken the vehicle loan

and purchased the new chassis as mentioned above, on December 1, 2024.

However, since thereafter, the respondent authority as above has not been responding to the prayer of the writ petitioner for registration of the vehicle on the ground of pendency of the traffic challan cases as against the old vehicle of the writ petitioner.

Mr. Khan submits that pending traffic challan cases as against the old vehicle of the petitioner have been duly disposed of pursuant to deposit of the penalty amount by the writ petitioner as against those respectively. The only five remaining cases are causing hindrance for the petitioner to get his new chassis registered by the said authority, Mr. Khan says.

In this regard Mr. Khan has relied on the provisions under Section 41 of the Motor Vehicles Act, 1988 as well as Rule 47 of the Central Motor Vehicles Rules and Rule 349 of the West Bengal Motor Vehicles Rules, 1989.

Mr. Khan would say that pendency of traffic challan cases which are compoundable in nature, shall not be an embargo as per any of the relevant provisions of law as mentioned above, for the writ petitioner to get his new chassis registered by the competent authority.

He would say further that according to the direction of the competent authority, the writ petitioner

shall have to replace his new chassis within the extended period, that is within May 9, 2025. It is submitted that in such circumstances, by not registering the petitioner's new chasis/ vehicle in order to enable that to be replaced in due course, the respondent authority has acted illegally and unauthorizedly, Mr. Khan has submitted.

He seeks that the present writ petition be allowed immediately directing the said authority to register the petitioner's new chassis being Chassis No. MB1PAECD2RACS8771.

Mr. Farianania, learned advocate appears for the State respondent. He has handed over to the Court a report of the Secretary, Regional Transport Authority, Kolkata Region. The same has revealed that the petitioner has not filed any application for endorsement of replaced vehicle, though has been issued replacement order in his favour.

By virtue of the Court's order, the Deputy Commissioner of Police (Traffic) has been added as a party respondent in the preset case. A report of the said respondent authority is also on record, as submitted today in Court. According to the same, 5 traffic challan cases are pending before the Court, against the earlier vehicle of the petitioner.

On the basis of the said reports, Mr. Farnania has submitted that unless and until the writ petitioner files an application for endorsement of replaced vehicle, the RTA Kolkata region shall not be in a position to acknowledge such replacement of vehicle of the writ petitioner. Also that during pendency of the 5 traffic Challan cases, the registering authority/respondent no. 5 shall not be in a position to register the vehicle of the writ petitioner.

Having heard both the learned counsels and having perused the records, the Court finds that after being granted the replacement order to replace the old chassis with a new one i.e. dated November 11, 2024, the petitioner has purchased a new chassis on December 1, 2024.

The petitioner is now required to get his new chassis registered by the competent authority i.e. respondent no. 5 and to place the same before the concerned authority pursuant to the order of replacement as above.

At this juncture, the petitioner has been made to confront with the direction of the concerned authority for disposing of the pending traffic challan cases against his old chassis number, before any registration of his new chassis be made by the said respondent.

The provision for registration of Motor Vehicle has been provided under Section 41 of the Motor Vehicles Act, 1988 in the following manner:-

“41. Registration, how to be made.—(1) An application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and information and shall be made within such period as may be prescribed by the Central Government: Provided that where a motor vehicle is jointly owned by more persons than one, the application shall be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purposes of this Act.

(2) An application referred to in sub-section (1) shall be accompanied by such fee as may be prescribed by the Central Government.

(3) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in such form and containing such particulars and information and in such manner as may be prescribed by the Central Government.

(4) In addition to the other particulars required to be included in the certificate of registration, it shall also specify the type of the motor vehicle, being a type as the Central Government may, having regard to the design, construction and use of the motor vehicle, by notification in the Official Gazette, specify.

(5) The registering authority shall enter the particulars of the certificate referred to in sub-section (3) in a register to be maintained in such form and manner as may be prescribed by the Central Government.

(6) The registering authority shall assign to the vehicle, for display thereon, a distinguishing mark (in this Act referred to as the registration mark) consisting of one of the groups of such of those letters and followed by such letters and figures as are allotted to the State by the Central Government from time to time by notification in the Official Gazette, and displayed and shown on the motor vehicle in such form and in such manner as may be prescribed by the Central Government.

(7) A certificate of registration issued under sub-section (3), whether before or after the commencement of this Act, in respect of a motor vehicle, other than a transport vehicle, shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable.

(8) An application by or on behalf of the owner of a motor vehicle, other than a transport vehicle, for the renewal of a certificate of registration shall be made within such period and in such form, containing such particulars and information as may be prescribed by the Central Government.

(9) An application referred to in sub-section (8) shall be accompanied by such fee as may be prescribed by the Central Government.

(10) Subject to the provisions of section 56, the registering authority may, on receipt of an application under sub-section (8), renew the certificate of registration for a period of five years and intimate the fact to the original registering authority, if it is not the original registering authority.

(11) If the owner fails to make an application under sub-section (1), or, as the case may be, under sub-section (8) within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be

prescribed under sub- section (13): Provided that action under section 177 shall be taken against the owner where the owner fails to pay the said amount.

(12) Where the owner has paid the amount under sub-section (11), no action shall be taken against him under section 177.

(13) For the purposes of sub-section (11), the State Government may prescribe different amounts having regard to the period of delay on the part of the owner in making an application under sub-section (1) or sub-section (8).

(14) An application for the issue of a duplicate certificate of registration shall be made to the 1 [last registering authority] in such form, containing such particulars and information along with such fee as may be prescribed by the Central Government.”

The Central Motor Vehicles Rules, 1989 has provided for registration of Motor Vehicles under Rule 47 thereof which is as follows:-

“47. Application for registration of motor vehicles.—(1) *An application for registration of a motor vehicle shall be made in Form 20 to the registering authority within a period of [seven days] from the date of taking delivery of such vehicle, excluding the period of journey and shall be accompanied by— (a) sale certificate in Form 21; (b) valid insurance certificate; [(c) copy of the proceedings of the State Transport Authority or Transport Commissioner or such other authorities as may be prescribed by the State Government for the purpose of approval of the design [in the case of a trailer other than a vehicle of category T;] (d) original sale certificate from the concerned authorities in Form 21 in the case of ex-army vehicles; € proof of address by way of any one of the documents referred to in rule 4; (f) temporary registration, if any; (g) road-worthiness certificate in Form 22 from the manufacturers, [Form 22-A from the body builders]; [(h)custom’s clearance certificate in the case of imported vehicles along with the licence and bond, if any: Provided that in the case of imported vehicles other than those imported under the Baggage Rules, 1998, the procedure followed by the registering authority shall be same as those procedure followed for registering of vehicles manufactured in India, and] (i) appropriate fee as specified in rule 81; [(j) proof of citizenship; (k) proof of legal presence in India in addition to proof of residence in case of foreigners;] (l) technical specifications and any other document as may be required by the registration authority in respect of the modular hydraulic trailer;] [Provided that upto 31st December 2016, on and from the date of publication of the Central Motor Vehicles (Amendment) Rules, 2015, published on 15th January 2015, in respect of the models of the E-rickshaw and E-carts exiting prior to publication of the Central Motor Vehicles (Sixteen Amendment) Rules, 2014 and the notification published vide S.O. 2590 €, dated the 8 th October,2014, the application for registration under this sub-rule shall be made in Form 20 to the registering authority within a period of seven days from the date of issue of Form 21 and Form 22 and shall be accompanied by – (i) road worthiness certificate in from 22 to be issued by the manufacturer or dealer or registered E-rickshaw or E-cart Association or any agency authorised by*

State Government; and (ii) sale certificate in From 21 to be issued by manufacturer or dealer or registered Erickshaw or E-cart Association or any agency authorised by State Government for presentation along with the application for registration.] (2) In respect of vehicles temporarily registered, application under sub-rule (1) shall be made before the temporary registration expires. [(3) On and from the 1st January, 2015, every vehicle manufacturer shall, in accordance with from 20, From 22 and From 22-A, upload the vehicle details in the portal <https://www.vahan.nic.in/makermodel/>.] [(4) The modular hydraulic trailers registered under these rules shall ply in public place in laden condition subject to such other condition as may be determined by the Central Government from time to time.]”

From conjoint reading of the provisions of the statute and the rules as above, it is found that pendency of traffic challan cases has not been provided therein as an embargo for the registering authority to register a new vehicle/chassis in favour of the owner. Therefore, the petitioner, when complies with the other formalities as prescribed in the statute and the rule as above, shall be eligible for grant of registration in favour of his new vehicle. Recovery of fine amount with respect to a traffic challan case, if any, previously lodged against the old vehicle of the writ petitioner, should be subject to the relevant provisions of law for the said purpose and both cannot be made intertwined, in order to refuse the writ petitioner grant of registration, with respect to his newly purchased vehicle/chassis. As a matter of fact, the traffic challan case against the writ petitioner are compoundable in nature in terms of

provision under Rule 349 of the West Bengal Motor Vehicles Rules, 1989.

On the discussion as above, the Court finds that the present writ petition should succeed, since pendency of traffic challan cases against his old vehicle should not be considered as an embargo against the petitioner, while registering his new vehicle.

Hence, this writ petition no. WPA 4838 of 2025 is allowed and disposed of with the following directions:-

- i) The respondent no. 5 is directed to immediately register Chassis No. MB1PAECD2RACS8771 of the writ petitioner, to enable him to furnish the same before the competent transport authority, in terms of order of replacement of vehicle dated November 11, 2024, for being recorded as a newly replaced vehicle.
- ii) The respondent no. 5 shall conclude the exercise as above within a period of two weeks from the date of communication of copy of this order.
- iii) Let the petitioner take steps within a period of three months from the date of communication of copy of this order for disposal of the traffic challan cases pending

before the competent court, in accordance with law.

The writ petition is disposed of.

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

(Rai Chattopadhyay, J.)