

Item No.
31
24.3.25

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side.**

WPA 5785 of 2025

**Fatik Shah
Vs.
State of West Bengal and Ors.**

***Mr. Sanat Kumar Ray*
*Mr. Baidurya Ghosal For the Petitioner.***

***Mr. Susovan Sengupta*
*Mr. Subir Pal ... For the State.***

1. Affidavit of service filed by the petitioner is taken on record.

2. The writ petitioner is a valid permit holder and operates his stage carriage from “Guskara To Chittaranjan” pursuant to the said permit. His permit is renewed and valid till January 18, 2030. At this juncture, the petitioner intends to replace his vehicle which is manufactured in 2011 and with sitting capacity of 39 passengers. To that effect he has made an application before the respondent authority, Secretary. RTA, Purba Burdwan on February 17, 2025 along with requisite statutory fees.

3. Mr. Ray, is appearing for the petitioner. He has submitted that the petitioner wants to replace the old vehicle with the higher model vehicle

which is manufactured in the year 2014 with higher sitting capacity of 51 passengers. He has referred to the relevant statutory provision ie. Section 83 of the Motor Vehicles Act, 1988 to submit that the vehicle which the petitioner desires to replace, being the vehicle of same nature as the earlier one, the difference in sitting capacity would not be a bar in the eye of law in terms of the statutory provision as above.

4. In support of his submission as above, he has relied on a decision of Karnataka High Court, reported in the Indian Law Reports 1988, page 2447 (Yeshodhara Kadamba Vs. Karnataka State Transport)

5. Mr. Sengupta is appearing for the State.

6. Having heard the learned counsels and perusing the records, it appears that the petitioner being a valid permit holder would be eligible for replacement of his vehicle particularly with one of higher model and recent made.

7. In that event this writ petition is disposed of by directing the respondent no. 2, Regional Transport Authority, Purba Burdwan, to consider the petitioner's prayer for replacement of vehicle as made by dint of his representation dated February 17, 2025 by dint of a reasoned order and

after affording reasonable opportunity of hearing to the said writ petitioner.

8. Let that exercise be concluded by the said authority within a period of three weeks from the date of communication of copy of this order.

9. With the direction as above, the present writ petition being WPA 5785 of 2025 is disposed of.

10. Since no affidavit has been called for, allegations made in the writ petition, shall be deemed to have been denied by the respondents.

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

(Rai Chattopadhyay, J.)