

N.22S1

WPA 9640 of 2025

151/CL

Shyamal Kumar Das

13.06.25

v.

SI-05

The State of West Bengal & Ors.

Ct.551

(S.R.)

Mr. N.I. Khan

Mr. A.K. Mukherjee

...for the petitioner.

Mr. Pantu Deb Roy, AGP

Mr. Subrata Guha Biswas

... for the State.

The petitioner has approached this Court seeking issuance of a Writ of Mandamus directing the respondent transport authority to pass an order of replacement of the existing old vehicle of the petitioner by a vehicle compliant with the BS VI emission norms/standards (hereinafter “BS VI vehicle) and for a further direction commanding the respondent authorities to forthwith renew the permit of the petitioner after compliance with all relevant formalities.

The petitioner was plying a vehicle that had crossed the fifteen years’ usage limit. Accordingly, on January, 31, 2023 the petitioner made an application before the relevant transport authority seeking an order for scrapping the old existing vehicle and for permitting replacement thereof by a BS VI vehicle. Despite the petitioner’s application having been made on January 31, 2023, no order permitting replacement of the existing old vehicle of the petitioner by a BS VI vehicle was passed by the respondent authorities.

Being aggrieved thereby the petitioner has approached this Court by filing the instant writ petition.

During pendency of the writ petition, the Secretary of the Regional Transport Authority has issued an order of replacement of the petitioner's old vehicle No.WB-25B-7136 having permanent stage carriage permit bearing No.P.St.P. 0005/Bst/81/2007 on route no.81 and 81/1. Mr. Khan, learned advocate appearing for the petitioner has handed up a copy of the said replacement order being Memo No.1910/MV/BST dated May 21, 2025 issued by the Secretary, Regional Transport Authority, North 24 Parganas, Barasat. The same is taken on record. The said replacement order, *inter alia*, requires the petitioner to place the new vehicle within sixty days from the date of issuance of the replacement order along with the documents mentioned therein.

Mr. Khan, learned advocate for the petitioner submits that the petitioner was unable to apply for renewal of the petitioner's permit within the period prescribed/mentioned in Section 81(2) of the Motor Vehicles Act, 1988 in view of the fact that the replacement order came to be passed as late as on May 21, 2025, despite the petitioner's application, therefor, having been made on January 31, 2023. It is further submitted that in view of the fact that there was/is no fault on the part of the petitioner, the petitioner should be permitted to make an application before the respondent no.4 i.e. the

Secretary, Regional Transport Authority, Barasat seeking renewal of his permit without insistence for payment of late fee because the petitioner is not responsible for the delay in making such application.

Mr. Deb Roy, learned advocate appearing for the respondents submits that the petitioner is required to put in all necessary charges in terms of the law governing the field.

Upon hearing the learned advocates appearing for the respective parties and having considered the material on record, it is clear that the petitioner has made an application for replacement of his existing old vehicle by a BS VI vehicle as far back as on January 31, 2023 and such application was not disposed of till an order in such regard came to be passed on May 21, 2025. The petitioner's permit was valid till May 20, 2023 as is evident from a copy thereof, which forms annexure P1 to the writ petition. The petitioner, therefore, made the application well within the time provided for in Section 81(2) of the Motor Vehicles Act, 1988. If the authority concerned has delayed the decision thereon for reasons not attributable to the petitioner, the petitioner should not be saddled with any late fee as required to be paid under Rule 151 read with Schedule E3 of the West Bengal Motor Vehicles Rules, 1989. The petitioner shall, however, remain obliged to comply with all the other conditions and formalities as mentioned in the order of replacement

bearing Memo No.1910/MV/BST dated May 21, 2025 (excepting payment of late fee as aforesaid) within the period mentioned in the said replacement order. In case, the petitioner complies with all the formalities and the conditions (excepting payment of late fee in terms of Rule 151 read with Scheduled E3 of the West Bengal Motor Vehicles Rules, 1989) as mentioned in the aforesaid replacement order dated May 21, 2025 and makes such application for renewal with requisite fees in terms of the statute (excluding the late fee as mandated under Rule 151 of the aforesaid Rules), the respondent no.4 shall accept the petitioner's application for renewal and pass appropriate orders thereon strictly in accordance with law within a period of two weeks from the date of production of the vehicle in compliance with the replacement order dated May 21, 2025.

With the above observations, WPA 9640 of 2025 is disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)