

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Om Narayan Rai

WPA 14022 of 2025

Apu Sinha

-vs.-

The State of West Bengal & Ors.

For the Petitioner : Mr. Barun Kumar Samanta, Adv.

For the State : Mr. Ansar Mondal, Ld. AGP
Mr. Tanweek J. Mandal, Adv.

Hearing Concluded on : 16.07.2025

Judgment on : 08.08.2025

Om Narayan Rai, J.:-

1. This writ petition assails an order dated April 21, 2025 passed by the Board of the State Transport Authority, West Bengal.
2. The facts of the case as may be culled out from the material on record are as follows:-
 - a) The petitioner owns a bus. It was thus far being plied on the route Sonakania to Karunamoyee on the strength of an Inter-Regional State Carriage Permit issued in his favour.
 - b) On or about April 22, 2024, the petitioner's vehicle was unauthorisedly halted by the petitioner's own staff at CBT, Esplanade. Since the halt was in violation of the permit conditions, a fine of Rs. 10,000/- was imposed on the petitioner by a challan dated April 22, 2024.

- c) Subsequently, a Memo bearing No. 443/STA/SC dated July 3, 2024 was issued by the Secretary, State Transport Authority, West Bengal whereby the petitioner was directed to show-cause as to why should the petitioner's permit not be cancelled for violation of the permit conditions.
- d) The petitioner failed to give any suitable reply to the said show-cause notice as the petitioner had allegedly not received the same within time. Consequently the Secretary, State Transport Authority, West Bengal issued an order dated August 6, 2024 whereby the petitioner's permit was suspended for three months and the petitioner was directed to surrender the permit.
- e) The petitioner represented against the said order dated August 06, 2024 by a letter dated September 02, 2024 and prayed for withdrawal of the said order of suspension but the State Transport Authority, West Bengal did not pay heed to the petitioner's request. The petitioner, therefore, had to suffer the order of suspension of his permit for three months.
- f) In the meantime, on August 12, 2024 the petitioner's vehicle crossed Rabindra Setu, Howrah Bridge violating the permit conditions for the second time, wherefore another challan imposing fine of Rs. 10,000/- was issued against the petitioner.
- g) Thereafter, the petitioner's vehicle was found to have violated the permit conditions for a third time on September 09, 2024 and a further challan imposing another fine of Rs.10,000/- was issued against the petitioner.

- h) Subsequently, the Secretary, State Transport Authority, West Bengal issued an order dated November 29, 2024 thereby cancelling the petitioner's permit.
- i) Upon receiving such order dated November 29, 2024 whereby the petitioner's permit had been cancelled, the petitioner made a representation before the State Transport Authority, West Bengal on December 9, 2024 seeking withdrawal of the said order of cancellation of his permit. The said representation did not yield any positive result.
- j) Being aggrieved thereby the petitioner approached this Court by filing a writ petition being WPA No. 624 of 2025. The said writ petition was disposed of by an order dated March 18, 2025 thereby directing the respondent no. 2 in the writ petition to consider and decide the representation submitted by the petitioner after affording an opportunity of hearing to him. It was further directed that the said respondent would consider if the petitioner's case could be *"covered under the provision of Section 86(5) of the Motor Vehicles Act or not"* and that if *"upon consideration the said respondent came to an affirmative decision it would recall its order dated November 29, 2024 and pass necessary orders in terms of Section 86(5) of the Motor Vehicles Act, 1988"*.
- k) In terms of the said order, the petitioner was afforded an opportunity of being heard by the State Transport Authority, West Bengal and during the hearing an offer was made to the petitioner asking him to pay a sum of Rs. 4,00,000/- (Rupees Four Lakh) in

order to revoke the proceedings for cancellation of the petitioner's permanent permit.

- l) The petitioner did not agree to make such payment and made representations to consider accepting a sum of Rs. 25,000/- (Rupees Twenty Five Thousand) instead of the said sum of Rs. 4,00,000/- (Rupees Four Lakh).
- m) Since the Respondent State Transport Authority, West Bengal has not considered the petitioner's request, the petitioner has approached this Court by way of the instant writ petition praying *inter alia* for issuance of a writ of mandamus directing the respondents "*to forbear from giving effect to*" the decision dated April 21, 2025 taken by the Board of the State Transport Authority, West Bengal to impose penalty of Rs. 4,00,000/- (Rupees Four Lakh) when the petitioner agreed to pay a sum of Rs. 25,000/- (Rupees Twenty Five Thousand).
- n) It also needs to be noticed that the writ petitioner has at the end of the writ petition (pages 49 to 51) annexed copies of three "e-Challan compounding fee deposit receipts" collectively marked as Annexure-P/11. The same reveals that the petitioner paid off the fines of Rs. 10,000/- that had been imposed on the petitioner for the three successive violations of permit conditions committed by the petitioner. It is also noted that the fines were not paid instantaneously or at any time proximate to the date of imposition thereof but were paid much later.

3. Mr. Samanta, learned Advocate appearing for the petitioner submitted that the provision of Section 86(5) of the Motor Vehicles Act, 1988 clearly speaks about payment of “*the sum of money agreed upon*” meaning thereby that an agreement is to be arrived at between the relevant Transport Authorities and the delinquent vehicle owner for the purpose of avoiding cancellation of permit. It is submitted that the amount proposed should not be so exorbitantly high as to obviate any possibility of agreement. It is submitted that a sum of Rs. 4,00,000/- is exorbitantly high and such a sum could not have been proposed by the Respondent Transport Authority.
4. Mr. Samanta further submitted that in any case once it was found that no sum was agreed upon by the parties, it becomes incumbent on the State Transport Authority, West Bengal to start the process of cancellation by issuing a fresh show cause notice and cancellation of permit cannot be the immediate result of failure to arrive at a consensus on the amount to be paid in terms of section 86(5) of the Motor Vehicles Act, 1988. In such connection he relied on the judgment of this Court in the case of ***Joint Action Committee of Bengal Taxi Association, etc. & Anr. vs. State of West Bengal & Ors.***¹. He also placed reliance on the judgment in the case of ***Vimal Kumar Paswan vs. The State of Jharkhand***² to contend that if a statute prescribes that an act has to be done in a particular manner it has to be done in that manner alone or not at all. He then relied on the judgment in the case of ***Santosh Kumar Sahoo vs. Secretary, State Transport Authority, Odisha, Cuttack & Anr.***³ to contend that the

¹ 1993 SCC OnLine Cal 282

² 2024 SCC OnLine Jhar 117

³ (2020) 06 OHC CK 0005

amount stipulated by the State Transport Authority must be commensurate with the with the nature, gravity and frequency of the offence committed, the quantum of punishment that would otherwise have been imposed and the earning capacity of the vehicle.

5. The learned Advocate appearing for the State respondents submitted that the petitioner was a habitual offender and it will be apparent from the facts of the case that the petitioner had violated the permit conditions thrice. There is no explanation provided by the petitioner for such repeated violation of permit conditions. He relies on an unreported judgement of the High Court at Delhi rendered on December 18, 2015 in the case of **Rajesh Kumar vs. State (NCT of Delhi), W.P. (CRL) 925/2015** in support of his contention.
6. Upon perusal of the documents on record, it is apparent that the petitioner is a repeat offender. The petitioner violated the permit conditions initially on April 21, 2024 for which a fine of Rs. 10,000/- was imposed and a show-cause notice was issued to him on July 3, 2024 which remained unanswered. The permit in respect of the petitioner's vehicle was suspended for a period of three months. The petitioner violated the permit conditions for the second time on August 12, 2024 for which another fine/penalty of Rs. 10,000/- was imposed on him. The petitioner did not stop at this and committed a third violation on September 09, 2024 wherefore yet another fine of Rs. 10,000/- was imposed on him. It is only thereafter that the permit in respect of the petitioner's vehicle was cancelled by an order dated November 29, 2024. I have gone through the representations made by the writ petitioner as well as the averments made in the writ petition. Neither of

them proffers even a modicum of explanation as regards the persistent violation of the permit conditions by the petitioner.

7. This Court too, while disposing of the petitioner's earlier writ petition being WPA 3838 of 2025, had found that violation of permit conditions at the instance of the petitioner stood established. Paragraph 9 of the order dated March 18, 2025 passed by this Court may be noticed in such regard:-

"9. The petitioner in this case has accepted the allegation of violation of the permit conditions and entering into the restricted zone, for plying his vehicle. Under such circumstances, the fact of violation, by the petitioner, is already established. This would generally render the petitioner's permit liable for cancellation in terms of the Court's order. However, this Court finds that under Section 86(5) of the Motor Vehicles Act, 1988, the statute has provided discretion on the transport authority, which may be exercised for recovering requisite fees from the concerned violator instead cancelling or suspending his permit. The Court also finds that in accordance with the directions of the Hon'ble Division Bench as above a permit holder has been granted liberty to take recourse of the statutory remedy available to him."

(Emphasis supplied by underlining)

8. Thus although the Court was satisfied that the petitioner had violated the permit conditions and had thereby become liable to suffer cancellation of his permit, yet since Section 86(5) of the Motor Vehicles Act, 1988, provided (provides) scope for the relevant transport authority to recover a certain sum, that may be agreed upon, from the concerned violator and refrain from cancelling his permit, therefore the Court felt that the petitioner should be allowed to explore such a possibility. Now the Respondent State Transport Authority has considered the petitioner's case in the light of such provision and asked the petitioner to pay a sum of Rs. 4,00,000/- (Rupees Four Lakh) which the petitioner labels as exorbitant.

9. At the first blush it might appear that a sum of Rs. 4,00,000/- (Rupees Four Lakh) as proposed by the Respondent State Transport Authority to be paid by the petitioner is astronomically high but when the facts and circumstances under which such sum has been asked to be paid are noticed, such sum would not appear to be too outlandish. The petitioner has shown the temerity of violating permit conditions thrice in succession. The fines imposed on the petitioner on the said three occasions were not paid by the petitioner at any time immediately after the issuance of the respective challans imposing such fine. The petitioner thought of whitewashing his conduct by paying off the fines much later. In the light of such facts stipulation of an amount of Rs. 4,00,000/- (Rupees Four Lakh) by the Respondent State Transport Authority to be paid by the petitioner does not shock the conscience of the Court.
10. The provision of Section 86(5) of the Motor Vehicles Act, 1988 provides that upon payment of a certain sum of money that has been agreed upon between the relevant State Transport Authority and the delinquent vehicle owner, cancellation of permit would not be resorted to. If the petitioner does not agree to the sum stipulated by the State Transport Authority there would be no "*sum of money agreed upon*" and consequently the cancellation of the permit would remain unaffected. There is no other way out at least in the present case. I have noticed that the Respondent State Transport Authority has used the expression penalty in the order impugned. Such expression indeed falls foul of the intent of Section 86(5) of the Motor Vehicles Act, 1988 inasmuch as the said provision does not contemplate imposition of any fine/penalty but speaks of payment of a certain agreed

sum. However, that by itself would not invalidate the order inasmuch as upon a holistic reading of the order impugned it becomes evident that the Respondent State Transport Authority has asked the petitioner to pay a sum of Rs. 4,00,000/- (Rupees Four Lakh) to stave off the cancellation of his permit. It is indeed a proposal asking for such payment of a certain sum, to which the petitioner may agree or decline. For a proposal to be valid it must stand the test of Section 2(a) of the Indian Contract Act, 1872 and in the considered view of this Court the stipulation to pay Rs. 4,00,000/- put forth by the State Transport Authority, West Bengal does pass such test. The same, therefore, cannot be faulted.

11. While Mr. Samanta may be correct in submitting that if a Transport Authority is permitted to quote an astronomical amount then in such a case the very purpose of using the expression a certain "*sum of money agreed upon*" in Section 86(5) of the said Act of 1988 would get frustrated, but at the same time it can also not be lost sight of that if the amount stipulated is such that the same becomes easily payable then that would leave room for an offender/violator to toy with the said provision and commit violation repeatedly treating the same to be a regular affair rather than a result of an unintentional lapse. It should not be the case that the provision of agreement between the delinquent vehicle owner and the State Transport Authority becomes a ruse for repeating offences and violating permit conditions thereby rendering cancellation proceedings a far cry. The said provision under section 86(5) therefore gives scope to the relevant Transport Authority to quote an amount having regard to the facts and circumstances of a given case and the case at hand indeed justify quoting a large amount.

12. One of the most significant reasons behind the present avatar of the Motor Vehicles Act, 1988 was that the society badly needed effective ways of tracking down traffic offenders. The provisions of section 86(5) of the Motor Vehicles Act, 1988 will therefore have to be so read as to mean that the relevant Transport Authorities have the power/authority to quote such amounts that would act as a deterrent for repeat traffic offenders. This assumes more importance in the wake of increasing traffic indiscipline at the present day.
13. As regards the submission of Mr. Samanta that the State Transport Authority, West Bengal should restart the process of cancellation by issuing a fresh show cause notice in terms of the observations of this Court in the case of ***Joint Action Committee of Bengal Taxi Association*** (supra), this Court is of the view that such a submission is wholly misplaced. In the case at hand the act of violation by the petitioner has already been established as would be evident from the facts delineated hereinabove and especially the order dated March 18, 2025 passed by this Court in the earlier round of litigation. As already discussed hereinabove, this Court had in paragraph 9 of the said order dated March 18, 2025 clearly found that violation of permit conditions at the instance of the petitioner stood established. It is settled law that where, on “*admitted or indisputable*” facts only one conclusion is possible, and under the law only one penalty is permissible then in such cases, a Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice, but because Courts do not issue writs which are “*futile*”. (***See S.L.***

Kapoor vs. Jagmohan & Ors.⁴; State of U.P. vs. Sudhir Kumar Singh & Ors.⁵

14. Furthermore, it also needs to be noted that the case in ***Joint Action Committee of Bengal Taxi Association*** (supra) was not a case of a repeated offence having been committed. It was in such situation that it was observed that if the person concerned does not agree to pay the proposed amount, the Transport Authority cannot insist upon the payment of the sum but can only initiate action for cancellation of permit and that purpose call for explanation the person concerned under the proviso to Section 86(1). In the case at hand it is apparent that the petitioner has already been granted a hearing in terms of the order dated March 18, 2025 passed by this Court.
15. Turning to the other judgments cited by Mr. Samanta, as regards the judgment in the case of ***Santosh Kumar Sahoo*** (supra), the same is again of no help to the petitioner inasmuch as the said case was rendered in the context of the Orissa Motor Vehicles Rules, 1993, which provided certain guidelines for quoting the amount payable in terms of Section 86(5) of the said Act of 1988. There is no Rule to such effect as regards the State of West Bengal. Furthermore, this Court has found that in the facts and circumstances of the present case it cannot be said that the stipulation by the respondent State Transport Authority to the petitioner to pay a sum of Rs. 4,00,000/- (Rupees Four Lakh) is in any manner grotesque. As regards the judgment in the case of ***Vimal Kumar Paswan*** (supra) the proposition for which the same has been cited is indeed salutary but then the same does not help the petitioner at all. As already indicated hereinabove, the

⁴ (1980) 4 SCC 379

⁵ (2021) 19 SCC 706

Respondent State Transport Authority has been found to be justified in quoting a sum of Rs. 4,00,000/- (Rupees Four Lakh) to be paid by the petitioner in the facts and circumstances of the case.

16. For all the aforesaid reasons this Court finds no cause to interfere with the order impugned dated April 21, 2025. WPA 14022 of 2025 stands dismissed.

No order as to costs.

17. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all formalities.

(Om Narayan Rai, J.)