

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Ct.551 **02.07.25**
Item No.11 Sws.M

WPA 14241 of 2025

**M/S.The Fair Dealers Corporation and Anr.
Vs
The State of West Bengal&Ors.**

Mr. N.I. Khan
Mr. Amlan Kumar Mukherjee
...for the petitioners

Mr. Pantu Deb Roy, Ld. AGP
Mr. Subrata Guha Biswas
....for the State

Mr. Kanishk Sinha
....respondent No.6- in person

Affidavit of service filed in Court is taken on record.

The petitioners claim to be the manufacturers of e-rickshaws. The petitioners are aggrieved by the non-issuance of certificate of registration in respect of vehicles (e-rickshaws) manufactured by the petitioner No. 1.

The petitioners refer to a Memo dated January 13, 2022 issued by the Additional Director, Transport Directorate whereby the RTO/ARTO (All) have been requested *“to follow the restraining direction of the Hon’ble Court, in connection with registration of battery operated Eco-friendly e-rickshaws until any further order is received from any other competent Court of Law”* and Memo dated July 13, 2022 whereby the Special Secretary, Transport

Department has requested the Director, Transport Directorate “to pass necessary instruction to the Registering Authority for taking necessary action in compliance with the order dated June, 3, 2022 in terms of Notification No. 612-WT/3M-09/2013 dated February 25, 2013 and the terms and conditions as specified in the certificate as issued by the Certification Authority CAT” and seek quashing thereof.

Mr. Khan, learned advocate appearing for the petitioners invites the attention of this Court to an order dated May 8, 2025 passed in WPA 10127 of 2025 (M/s. Blue Edge Trade Venture Private Limited & Ors. vs. The State of West Bengal & Ors.) whereby this Court had disposed of the writ petition with a direction upon the Transport Department, Directorate, Government of West Bengal to issue necessary direction upon the concerned regional transport offices to grant registration to the e-vehicles manufactured by the petitioners subject to the said vehicles being different and distinct from the category forming subject matter of the title suit pending before the learned Additional District Judge, 13th Court, Alipore, and subject to compliance with Rule 126 of the Central Motor Vehicles Rules, 1989 and all other formalities prescribed under the Act/Rules by the petitioners and also upon consideration of relevant documents to be placed by the petitioners before the authority”.

Mr. Khan submits that the case of the petitioners herein is similar to that of the petitioners in WPA 10127 of 2025 and that similar order as the one passed in WPA 10127 of 2025 may be passed herein.

Mr. Deb Roy, learned advocate appearing for the State-respondents submits that several similar orders have been passed by this Court in similar matters and the same may be followed.

Mr. Kanishk Sinha, the respondent No. 6, appears in-person and hands up to this Court a copy of an order dated April 22, 2025 passed by the Hon'ble Division bench of this Court in *MAT 903 of 2024 with CAN 2 of 2024 (Gunjan Sinha @ Kanishk Sinha and Anr. vs. Union of India & Ors.)*. He specifically points out the following observations made in the said order.

“.....The said sub-section states that on and from the grant of patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for invention had been granted on the date of publication of the application. At this juncture, it is to be noted that the patent rights are statutory rights and no common law rights are available in patents. Hence, an action for infringement would be maintainable only if the patent is granted and the patent is live.....”

Relying on the aforesaid observations of the Hon'ble Division Bench, Mr. Sinha submits that in terms

thereof the tenure of the patent granted in favour of Mr. Sinha shall be twenty years from the date of publication of such patent. He submits that such publication of his patent was done in the year 2013.

Mr. Sinha invites the attention of this Court to an order dated June 17, 2025 passed in GA No. 3378 of 2014, CS No. 388 of 2014 (*Jasper Motors Private Ltd. & Anr. vs. The proprietor, Basantee Battery Operated Rickshaw & Ors.*) wherein it has been observed that the plaintiff in the said suit is “*a patent holder for the novelty introduced in the echo-friendly vehicle. The novelty is that the fuel cell (battery) is mounted on the vehicle and the vehicle is “echo friendly”.*”

Mr. Sinha further submits that he does not have any patent in respect of any kind of battery and that he has patent only in respect of the technology.

Having heard the learned advocates appearing for the respective parties and the having considered the material on record, since this Court finds that the petitioners before this Court are similarly circumstanced as the petitioners in WPA 10127 of 2025 and therefore, similar order as passed by this Court in WPA 10127 of 2025 may be passed herein.

This writ petition is, therefore, disposed of by directing the Transport Directorate, Government of West Bengal, i.e. the respondent No. 3 to issue necessary direction upon the concerned regional transport offices to

grant registration to the vehicles manufactured by the petitioner No. 1 subject to it being found that the said vehicles are different and distinct from the category of the vehicles which forms the subject matter of the Title Suit No. 27 of 2018 pending before the learned Additional District Judge 13th Court at Alipore and also subject to compliance with Rule 126 of the Central Motor Vehicles Rules, 1989 as also the other formalities prescribed under the governing Act and the Rules by the petitioners and also upon consideration of all relevant documents to be placed by the petitioners before the relevant Transport Authority.

It is made clear that the registering authority shall be at liberty to consider all relevant material regarding the pending proceeding, i.e. the aforesaid Title Suit No. 27 of 2018 at the time of registration of the e-vehicles manufactured by the petitioner No. 1.

The entire exercise should be completed within a period of two months from the date of communication of this order.

WPA 14241 of 2025 stands disposed of with the aforesaid observations.

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

Since no Affidavit-in-Opposition has been invited, allegations made in the writ petition are deemed not to have been admitted by the respondents.

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

(Om Narayan Rai , J.)