

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

Present:

**The Hon'ble Justice Rai Chattopadhyay**

**WPA 25840 of 2024**

**Pranabesh Maiti**

**Vs.**

**The State of West Bengal & Ors.**

**For the Petitioner** : Mr. Arabinda Chatterjee, Sr. Adv.  
: Ms. Kakali Dutta

**For the State** : Mr. Amal Kumar Sen, Ld. AGP  
: Mr. Lal Mohan Basu

**Judgment on** : **28/10/2025**

**Rai Chattopadhyay, J. :-**

- (1) An order of the Secretary, Regional Transport Authority Purba Medinipur/ respondent No.3, dated **July 10, 2024**, is under challenge in the present writ petition. Before dealing with the factual background of the instant case, one may have a look the decision of the said respondent authority and the reasons therefor, in the impugned order dated **July 10, 2024**.
- (2) The subject matter pertains to the petitioner's application for replacement of the old vehicle and renewal of his permit. A sale and replacement order was issued in favour of the writ petitioner on **August 17, 2022** by the said respondent no. 3. In the impugned order as above it has been held that the conditions as prescribed

in the said sale and replacement order dated **August 17, 2022**, particularly that contained in *clause-2* thereof, has not been complied with, rather has been violated by the writ petitioner. It has also been stated in the said impugned order to that with respect to the old vehicle, bearing No. WB 31-8580, the petitioner has not duly remitted to negotiate statutory fees, taxes and charges. The said respondent has mentioned in his order as above, that even before the day when the petitioner has applied for replacement of his vehicle, he has sold out and allowed registration of his old vehicle, in the name of some 3<sup>rd</sup> person, in effect to be attached with some other permit. Therefore, according to the said respondent, on the date of prayer of the petitioner seeking replacement of the vehicle, the vehicle was not owned by him anymore. Considering that to be a violation of the conditions as prescribed in the sale and replacement order dated **August 17, 2022**, the respondent No. 3, in the said impugned order has finally decided that *“the reason for refusal of replacement of the vehicle bearing Registration No. WB 31-8580 by the vehicle bearing Registration No. WB 33D-8178 was justified and now there is no scope for the undersigned to grant the replacement as prayed for by the Petitioner.”*

- (3) Hence, the said order of the respondent No. 3, is the subject matter of challenge in the present writ petition.
- (4) Mr Chatterjee, learned Senior Advocate has represented the writ petitioner. He has vehemently attacked the said impugned order dated **July 10, 2024**, on the grounds more than one. Firstly, he has stated, that the respondent authority would not have gone into the question of replacement if can be granted to the writ petitioner, any further, for the reason that it has already dealt

with the petitioner's prayer as above and allowed the same by dint of its order dated **August 17, 2022**. The said fact, having not been disputed, but only accepted by the respondent authority, any deviation therefrom would amount to be violation by the respondent authority of its own order. Mr Chatterjee learned Senior Advocate has submitted that the said impugned order is an illegal and perverse one, insofar as, the same does not contain as a reason of its decision, any ground specified in the statute, that is either, in the Motor Vehicles Act 1988 (section 83 of the Act of 1988 in particular) or the Rules framed thereunder (rule-153 of the West Bengal Motor Vehicles Rules 1989 in particular), which could have been stated to be to justify the grounds of rejection of the petitioner's prayer. According to Mr Chatterjee, the clauses mentioned in the sale and replacement order as above or any alleged violation thereof would not be any cogent, justified or lawful ground for rejecting petitioner's prayer by the said respondent authority. On that score, he says that the impugned order suffers from gross illegality.

- (5) Similarly, Mr Chatterjee has submitted that, the petitioner's prayer for renewal of permit, which has been otherwise submitted in due compliance with the statutory provisions, has been unlawfully and arbitrarily rejected by the respondent authority, without sanction of law and on the basis of reasons and grounds de-hors the law. Mr Chatterjee has mentioned the terms and conditions provided in the sale and replacement order dated **August 17, 2022**, are not mandatory but directory in nature, since no penal consequences have been provided for violation of any of those. Therefore, according to him there is no mandatory requirement for compliance thereof whereas the substantive rights of the writ petitioner which have accrued by virtue of the relevant

provisions of the statute is mandatorily required to be followed by the respondent authority in case of the petitioner or otherwise the respondent's action is not in coherence with the legal and statutory rights of the writ petitioner and thus is illegal. For all the reasons as stated above, Mr Chatterjee has submitted, that the present writ petition may be allowed by setting aside the decision of the respondent authority rejecting the petitioner's prayer for replacement of vehicle as well as renewal of his permit.

- (6) Mr Sen, learned AGP, has represented the state respondents in this case. According to him, the permit of the petitioner has ceased to be valid anymore. Therefore, on the basis of an invalid permit, the writ petitioner's prayers cannot be granted.
- (7) The respondents have filed a report in this case in the form of an affidavit. They have relied there upon in the present case. Mr Sen has stated further that the sale and replacement order granted in favour of the writ petitioner, dated **August 17, 2022**, specifically required compliance of the conditions as made therein particularly that contained in *clause 2* thereof, that the old vehicle cannot be withdrawn to be operated till the time the new vehicle is placed for endorsement. It is stated that the condition contained in *clause 2* of the said sale and replacement order dated **August 17, 2022**, is in terms of the statutory provision as contained in section 86(1)(c) of the Motor Vehicles Act, 1988. Therefore, according to the respondent, violation of that clause in the said and replacement order amounts to violation of the statutory provision itself. It is submitted that the petitioner's action amounts to such violation of the statutory provision insofar as the petitioner has sold his existing vehicle before replacing the same by any other similar vehicle, against his permit. Therefore, according to the State, at

the relevant point of time the writ petitioner has ceased to own a vehicle, covered by his permit. The respondent, though has not denied receipt of the petitioner's representation dated **April 26, 2023**, however has stated that giving effect to the replacement of the petitioner's old vehicle with the other one as proposed by him and his prayer for renewal of permit could not have been granted by the said respondent for the reason firstly that by operation of provision under section 86(1)(c ) of the Motor Vehicles Act, 1988, such replacement of vehicle of the writ petitioner, shall not be permissible and also that the validity of permit of the petitioner has already expired much before the date of representation of the petitioner, on December 12, 2022. That, on the relevant date, the petitioner did not possess the old vehicle and also the old vehicle of the petitioner after having been sold, was made attached to some other permit. Hence, as on the relevant date, the status of the writ petitioner's permit was that of an invalid one, in so far as, on the relevant date, the petitioner's permit had ceased to be valid being detached from any vehicle therewith, which is the primary and basic criteria for a permit to be valid. It is submitted that no replacement order can be granted to the writ petitioner as prayed for since on the relevant date, there was no taken at as to the permit of the writ petitioner. All these, as above has prompted the respondent authorities to prayed for dismissal of the present writ petition.

- (8)** At this juncture, it is necessary that the factual background of the case may be narrated in a nutshell, which is as follows. The writ petitioner owned a permanent stage carriage permit No. P.St.P. 09/89-90 (119/Pub Medi/02/23) for the route from *Digha to Howrah Railway Station*, which was valid up to December 12, 2022 as against the vehicle No. WB 31/8580.

- (9) During the validity period of the said permit of the petitioner, a sale and replacement order has been issued in favour of the writ petitioner on August 17, 2022. There have been certain terms and conditions stipulated in the said sale and replacement order dated August 17, 2022, which are as follows:

- “1. The old Vehicle to be replaced by better model of BSIII/BS- IV/BS-VI model Vehicle only.***
- 2. That the vehicle will not be withdrawn from the route till better model vehicle is being placed.***
- 3. That, before placement of better model vehicle, the same has to be produced before MVI(Tech) for technical verification, on the other hand, the existing vehicle has to be produced before MVI(NT) for execution of sale.***
- 4. That this existing vehicle will have no claim for any T.P / P.St.P Permit, Purba Medinipur Region.***
- 5. That this order will remain in force for 1 (one) month from the date of issue of this letter otherwise permit will be cancelled.***
- 6. That failure to place better model vehicle registered in the name of P.St.P holder within the period of 6 (six) months as matter in point 4, will lead to cancel of permit.***
- 7. That he/She has submitted Affidavit No. 1911 Dtd.: 30.07.2022 before Notary Public,Tamlum in this connection.”***

- (10) The dispute between the parties relate to particularly *clause 2*, as contained in the said sale and replacement order, which provides that vehicle will not be withdrawn from the route till better model vehicle is placed. According to the respondent, the petitioner has sought to replace his old vehicle with the other vehicle No. 33D/8178 only on October 21, 2022, though by that time the petitioner has already sold and was dispossessed with his old vehicle No. WB 31/8580. Not only that, the old vehicle of the writ petitioner has been registered with some other owner and attached with some other permit, as on the relevant date of application of the writ petitioner that is October 21, 2022. Hence, they say that on the date of application by the petitioner, his permit has become invalid being detached with any vehicle. It is also stated that eventually his application for renewal of permit

dated December 1, 2022 would also be irrelevant and not maintainable in the eye of law in so far as a permit invalidated by operation of law, shall not be eligible for renewal any further.

- (11)** The writ petitioner says that the new vehicle No WB33D/8178 was purchased by him on May 10, 2018 and since then the same was lying idle, though taxes and charges as applicable were duly remitted by the petitioner. Though the writ petitioner has not mentioned in the writ petition the fact or the date if any, on which he has sold his old vehicle No. WB 31/8580, the respondents have revealed in their report on affidavit that on the date of application of the petitioner for replacement of vehicle that is, on October 21, 2022, neither the vehicle No. WB 31/8580 was possessed by the writ petitioner nor it was attached with the permit No. P.St.P. 09/89-90 (119/Pub Medi/02/23), of the petitioner. Rather on the said date, the vehicle No. WB 31/8580 was attached to some other permit owned by a third person, other than the writ petitioner.
- (12)** The conditions, as enumerated in the sale and replacement order has already been quoted. In accordance with the same, the petitioner has been permitted to replace the old vehicle by a better BS 3/BS 4/BS 6 model vehicle. Also it is directed that the old vehicle shall not be withdrawn from the route till the new vehicle is placed.
- (13)** The statute has provided for replacement of vehicles in Section 83 of the Motor Vehicles Act, 1988. The only person eligible to seek replacement of vehicle, covered by permit, is the holder of the permit himself. The provision itself is eloquent enough to suggest that, in case the permit is not valid any further, excepting for a reason of expiry of the validity period, which is extendable upon

application even belatedly, the permit holder shall cease to be entitled any further under the said provision of law, to seek replacement of the vehicle. One of such reasons is that the vehicle covered under the permit, has not remained so by virtue of transfer thereof to any third person.

- (14)** In the present case, the petitioner has not denied the fact of sale of the old vehicle of him. However, the petitioner has suppressed the actual date of sale of his old vehicle, as if that is not at all relevant for this case. However, it is just opposite. The petitioner has to be the holder of a valid permit on the date he seeks replacement of his vehicle, in the present case on October 21, 2022. As submitted by Mr. Sen, the petitioner's permit shall not be held to be a valid permit the moment the petitioner, as the holder of that permit, ceases to own the vehicle covered by the permit, in accordance with the provisions under Section 86(1)(c) of the Motor Vehicles Act, 1988. Therefore, having accepted the fact of sale of his old vehicle and not disclosing the date of such sale, the petitioner has committed suppression of material fact, in the present case.
- (15)** Be that as it may, according to the writ petitioner, replacement of his vehicle, particularly, after the order passed by the respondent authority for sale and replacement of the same, that is, dated August 17, 2022 should be the statutory right of the writ petitioner, who holds the valid permit. As discussed above, the validity of the permit would be questionable rather null and void, had not petitioner on the date of replacement of the vehicle possessed the old vehicle, as against his permit.
- (16)** According to Mr. Chatterjee, the terms and conditions, as prescribed in the sale and replacement order dated August 17,

2022 shall neither have the statutory force nor be of mandatory nature and the petitioner should be guided by the provisions of statute, which grants him the right to replace his vehicle at any point of time, as per his convenience. The petitioner, however, does not deny that his application for replacement of vehicle is dated October 21, 2022.

- (17)** Therefore, the law requires that the petitioner should possess the vehicle covered under his permit on October 21, 2022, which is not a case here. Therefore, even if for argument's sake one accepts that the terms and conditions of the sale and replacement order dated August 17, 2022 are not mandatory in nature, but by operation of law, the petitioner's permit would stand as an invalid one on the concerned date that is, October 21, 2022. The reason being that, as per the report of the respondent State on the said date, the petitioner's vehicle has not been in possession of him any further and also the same was recorded to be covered under some other permit granted to a third person. As a matter of fact, to this assertion made by the State respondent, the writ petitioner has not raised any objection.
- (18)** Therefore, in the present case, the grounds pleaded by the writ petitioner, does not inspire confidence in the mind of the Court. Contrarily, it is found that, on the factual backdrop of the present case, the petitioner cannot be accepted as a lawful aspiration of replacement of his vehicle, pursuant to the valid permit possessed by him. He would cease to be a valid permit holder, the moment he is dispossessed of the vehicle covered under the said permit and in the petitioner's case, the date is unknown, though the fact is established. On the date of his prayer, seeking replacement of his vehicle uncontrovertedly the vehicle was not in his possession

and was in possession of some other permit holder, being covered under the permit of that other permit holder.

- (19)** Therefore, in the backdrop of the facts of this case, being scrutinized on the anvil of the legal provisions, as discussed above, the Court does not find in merit in the present writ petition.
- (20)** Hence, writ petition no. WPA 25840 of 2024 is dismissed.
- (21)** Urgent certified website copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Rai Chattopadhyay, J.)**