

(2006) 01 CAL CK 0041
In the Calcutta High Court
Case No : Writ Petition No. 11316 (W) of 2005

Jugal Mondal

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 04-01-2006

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 93
Motor Vehicles Act, 1988 — Section 40, 83

Citation : (2006) 4 ACC 663 : AIR 2006 Cal 189

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Pantu Deb Roy and Rita Sinha, for the Appellant; Rina Banerjee, for the Respondent

Final Decision : Dismissed

Judgement

Jayanta Kumar Biswas, J.—The writ petitioner is questioning the derision of the Regional Transport Authority dated April 18th, 2005 imposing certain conditions while permitting him to replace his existing motor vehicle. Two conditions imposed by the authority have made him aggrieved, they are (i) the width of the vehicle should be 84 inches having a gangway of 18 inches, (ii) it should be registered with the Registering Authority, Kolkata.

2. On June 26th, 1992 permit, for the first time, was issued in favour of the petitioner by the Regional Transport Authority, Kolkata. The vehicle (a minibus) was to ply along the route "Dunlop Bridge to BBD Bag". On February 24th, 2005 the authority adopted a resolution that vehicles under its control should be registered with the Registering Authority, Kolkata so that it could exercise the regulatory powers more effectively. On April 11th, 2005 the petitioner submitted an application seeking permission to replace his existing vehicle by a new one. That application was disposed of by the impugned decision dated April 18th, 2005.

3. Advocate for the petitioner submits that the authority has arbitrarily imposed

the condition that width of the vehicle should be 84 inches having a gangway of 18 inches. His argument is that in a large number of cases the authority permitted similar replacement by vehicles having a larger width and wider gangway. In support of his contention he refers me to para 4 of the supplementary affidavit affirmed by the petitioner on June 22nd. 2005.

4. After considering the provisions contained in Section 83 of the Motor Vehicles Act, 1988 and Rule 93 of the Central Motor Vehicles Rules, 1989 and 153 of the West Bengal Motor Vehicles Rules, 1989, I am of the view that the authority did not act arbitrarily or unreasonably by imposing the condition regarding specifications of the vehicle concerned.

5. As to the allegation of discrimination. I find that it has been made in a vague manner, though registration numbers of the vehicles have been mentioned in the para concerned. In my opinion, the petitioner cannot allege discrimination, unless he establishes that he has a legal right to place a vehicle having the body specifications as mentioned or wanted by him. It is for the authority to decide what should be the specifications of a particular vehicle. There is nothing to say that the condition is prejudicial to the interest of the passengers expected to use the vehicle. The authority has the requisite power to impose the condition for comfort, safety and convenience of the passengers.

6. Advocate for the petitioner argues that in view of provisions of Section 40 of the Motor Vehicles Act, 1988, the authority was not empowered to direct the petitioner to register the new vehicle with the Registering Authority, Kolkata, when being a resident of a place falling within the jurisdiction of another registering authority, he is entitled to register his vehicle with that registering authority. He says that major part of the route is beyond the jurisdiction of the Registering Authority, Kolkata.

7. In the opposition filed by the respondents it has been stated that for effective control vehicles plying within the jurisdiction of the authority need to be registered with the Registering Authority, Kolkata, and that the resolution for the purpose was adopted on February 24th, 2005, That is, however, not in question in the present writ petition.

8. Provisions in Section 40 of the Motor Vehicles Act, 1988 have not created any right of the owner of a motor vehicle, they have rather created an obligation to be discharged by him, if he wants to use the motor vehicle. They require him to register it. They only give him a choice to register it either with the registering authority in whose jurisdiction he is a resident, or with the registering authority in whose jurisdiction he has place of business where the vehicle is normally kept.

9. In this case the Regional Transport Authority has adopted a valid resolution, and it is in force, and it is also not disputed that a part of the place of business of the petitioner is within the jurisdiction of the Registering Authority, Kolkata. Hence it cannot be said that by imposing the condition regarding registration the authority has acted illegally or arbitrarily or unfairly or unreasonably.

10. For these reasons I do not find anything wrong with the impugned decision. The writ petition is accordingly dismissed. There shall be no order for costs in it.
11. Copy of this order duly countersigned by the Assistant Registrar (Court) or Assistant Court Officer shall be supplied to advocates for the parties on usual undertakings.
12. Urgent certified xerox copy of this order shall be supplied to the parties if applied for.