

25 & 26.
31-01-2022
debajyoti
(Ct. no.06)

CPAN 1193 of 2019
in
WPA/26933/2017
Rita Mitra
Vs.
Narayan Swarup Nigam & Ors.
W I T H
RVW/200/2019
State of West Bengal
Vs.
Biswajit Chakraborty & Ors.

Mr. Sanjib Dutta ... For the Petitioner.

Mr. Amal Kumar Sen, learned A.G.P.,
Mrs. Ashima Das (Sil),
Mr. Lalmohan Basu,
Mr. Shuvroprokash Lahiri
... For the State.

On August 17, 2018, an order was passed disposing of a bunch of Public Interest Litigations, the operative portion whereof reads as follows:

“ Having heard learned counsel for the parties, we direct the respondent authorities to ensure that all E-rickshaws that are plying in West Bengal are registered with the Regional Transport Authorities subject to compliance of such vehicles with Rule 126 of the Central Motor Vehicles Rules, 1989. Needless to say that if an E-rickshaw does not satisfy the conditions mentioned in Rule 126, the authority will not register the same and such E-rickshaw will not be allowed to ply on the roads.

Needless to say that the State-respondents shall ensure that the guidelines laid down by them by way of notifications/circulars shall be strictly adhered to. E-rickshaws which are not registered with the authorities or otherwise does not satisfy any

pre-condition laid down in the rules/notifications/ circulars shall not be allowed to ply on the roads. This is of paramount importance since it involves safety of the passengers of such E-rickshaws.

We trust and hope that the entire process of registering all the E-rickshaws plying in this State shall be completed at an early date and definitely within a period of three months from date, but the process must start immediately.

We make it clear that if any accident is caused or suffered by an unregistered E-rickshaw causing loss/damage to passengers thereof or other persons, the compensation for the same for the injury/loss/damage suffered by the passengers or other persons shall be paid by the owner of the concerned E-rickshaw. Such compensation shall be paid at the rate prescribed in the schedule to the Motor Vehicles Act, 1988. However, in the event the owner of the concerned E-rickshaw cannot be identified or traced, such compensation shall be paid by the State at the first instance and the State shall be entitled to recover such compensation amount from the owner of the concerned E-rickshaw.

It is made clear that beyond the period of three months, that we have granted, no unregistered E-rickshaw shall be permitted to ply in this State. ”

An application for review of the said order being RVW 144 of 2018 was taken out by the State. Such application was in effect for extension of time to comply with the order dated August 17, 2018. An order dated November 16, 2018 was passed in RVW 144 of 2018, the operative portion whereof reads as follows:

“ We find the prayer for extension of time to comply with the order to be reasonable.

Mr. Biswajit Dutta, Commissioner of Transport, Government of West Bengal, is

present in Court today. On being instructed by him, learned Advocate General submits that if time is extended by six months, it should be possible for the State to fully comply with the aforesaid order of this Court.

Accordingly, we extend the time for completing registration of all the e-rickshaws plying in the State till May 31, 2019.

We trust and hope that, by that time the entire process shall be completed. ”

The said review application was listed before the concerned Division Bench again on August 05, 2019, when an order was passed, the operative portion whereof reads as follows:

“ In the light of the aforesaid and as a last opportunity, we extend the time for the State Government to register all the e-rickshaws to be within such time within which the State Government authorities would register the unregistered e-rickshaws. However, the plying of the unregistered e-rickshaws ought not to be permitted under the guise of the fact that the time provided for registering the e-rickshaws has been extended at the behest of the State Government. As a consequence, we clarify that while the process of registering the e-rickshaws may go on, the period of permitting the unregistered e-rickshaws to ply in the State shall stand restricted till 31st August, 2019. This means that beyond August 31, 2019 the State shall not permit any unregistered e-rickshaw to ply in the State. ”

We have heard Mr. Sen, learned counsel, appearing for the State. He is not in a position to assure us that the order dated August 17, 2018, as modified by the subsequent orders referred to above, has been complied with. He is also not in a position to tell us that plying of unregistered E-rickshaws has been stopped completely. However, he, on

instructions, says that registration of all E-rickshaws in the State is yet to be completed.

We are taking a serious view of the matter. The parent order was passed about three and a half years ago. The Principal Secretary, Transport Department, Government of West Bengal, shall file a report before us on the next date stating the present status of compliance of the order dated August 17, 2018, as modified by the subsequent orders referred to above. It is in public interest that illegal plying of unregistered E-rickshaws must be stopped. We trust and hope that the Transport Department appreciates the immediate need and importance of stopping all unregistered E-rickshaws from plying.

List the matter on February 22, 2022.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)