

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.880 of 2022

Sri Rajesh Kumar Das

S/o Sri Molin Chandra Das, presently residing at Nutannagar,
Agartala, P.O. Nutannagar B.O, P.S.-Airport, District-West Tripura,
Pin-799009, permanent resident of village-North Joynagar, Agartala, P.S.-
West Agartala, P.O.-Agartala, District-West Tripura, Pin-799001.

....Petitioner(s)

Versus

1. The State of Tripura, represented by the Chief Secretary to the Government of Tripura, having his office at New Secretariat Complex, Agartala, P.O.-New Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura, Pin-799010.

2. The Principle Secretary, Department of Transport, Government of Tripura, having his office at New Secretariat Complex, Agartala, P.O.-New Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura, Pin-799010.

3. The Secretary, Department of Transport, Government of Tripura, having his office at New Secretariat Complex, Agartala, P.O.- New Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura, Pin-799010.

4. Sri Anindya Kumar Bhattacharya, IAS, residing at A.D. Nagar, Near Saint Paul's School, Agartala, P.O. & P.S.-A.D. Nagar, Sub-Division- Sadar, District-West Tripura, Pin-799003.

5. Sri Laihlia Darlong, IAS, residing at Khakchang Residential Complex, Near Auxilium Girls School, SDO Chowmuhan, Nandannagar, Sub-Division-Sadar, District-West Tripura, Pin-799006.

....Respondent(s)

For the Petitioner(s)	:	Mr. A. Pal, Advocate
For the Respondent(s)	:	Mr. D. Sarma, Addl. GA
Date of hearing & delivery of judgment & order	:	18.10.2023
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE ARINDAM LODH
Judgment & Order (Oral)

Heard Mr. A. Pal, learned counsel appearing for the petitioner.

Also heard Mr. D. Sarma, learned Addl. GA appearing for the respondents-State.

2. By means of filing the instant writ petition, the petitioner has prayed for quashing the report dated 04.05.2022 submitted by one Sri A.K.

Bhattacharya, Addl. Secretary, GA(AR) Department, Government of Tripura who was appointed as One-man Committee to inquire into the following issues:

- (i) Without proper planning MD, TRTC whimsically fixed a date of inauguration without Government approval and attempted to organize international programme of re-commencement of Agartala-Kolkata-Dhaka Bus Services on 28 April, 2022 and failed to obtain clearance from key stakeholders which resulted in postponement of the programme causing huge embarrassment in presence of foreign dignitaries and other dignitaries. The very purpose of organizing the programme was lost due to absence of proper planning and negligence.
- (ii) Due procedures and diligence have not been followed while spending taxpayers' money in contravention of the provisions of the Road Transport Corporation Act, 1950 (for short, Act of 1950) and the Delegation of Financial Powers Rules Tripura, 2019 (here-in-after referred to as Rules of 2019).

3. Briefly stated, while the petitioner was posted as Managing Director, Tripura Road Transport Corporation (for short, TRTC) there was an attempt for re-commencement of the Agartala-Kolkata-via Dhaka Bus Service. Having made all arrangements necessary to be undertaken by the Managing Director, i.e. the petitioner, he sought for approval of the Transport Department, Government of Tripura. Approval had been given on top priority which is evident from a communication dated 12.04.2022 (Annexure 1 to the writ petition). The subject content may be reproduced here-in-below:

“TOP PRIORITY

GOVERNMENT OF TRIPURA
TRANSPORT DEPARTMENT
SECRETARIAT

No.F.6(5)-Trans/2015/1055

Dated, Agartala, the 12th April, 2022

To
The Managing Director,
Tripura Road Transport Corporation
(A Govt. of Tripura Undertaking),
Krishnanagar, Agartala.

Sub: Agartala- Kolkata- via Dhaka Bus service.

Ref:- Your letter No.F.7(3)/MD/TRTC/VOLVO/BUS/2019/1120-25 dated 28/03/2022.

Sir,

I am directed to convey approval of the Transport Department in respect of your proposal under reference for recommencement of Agartala-Kolkata-via Dhaka Bus service from 15th April, 2022.

This is issued vide U.O. No.2138 MIN/AGRI/TOURISM/TRANSPORT dated 05.04.2022.

Yours faithfully
Sd/- illegible
[N.R. Dsas]
Deputy Secretary to the
Government of Tripura”

4. Thereafter, some communications had been made through Whatsapp. Those communications have been enclosed in the writ petition being authenticated by the Deputy Secretary, Transport Department, Government of Tripura(Annexure RA/1 to the writ petition).

5. Ultimately, the flag-off ceremony was organized on 28.04.2022. but it was postponed since necessary clearance from the Union Government and the Government of People’s Republic of Bangladesh was not obtained by the Transport Department, Government of Tripura.

6. Due to disruption of the said programme, the Principle Secretary, Transport Department, Government of Tripura, respondent no.2 herein had appointed a One-man Committee comprised of Sri A.K. Bhattacharya to inquire the circumstances under which the programme was organized. In course of inquiry, the said One-man Committee under his report dated 04.05.2022 found that the petitioner violated the provisions of Rules of 2019 and further observed that due procedures and diligence were not followed

while spending taxpayers' money as provided under Act of 1950(Annexure 2 to the writ petition). The petitioner has challenged the said report dated 04.05.2022.

7. On the aforesaid background of facts, Mr. Pal, learned counsel for the petitioner has submitted that Rule 2(g) of Rules of 2019 is not at all applicable to the Government Undertakings. According to Mr. Pal, learned counsel, TRTC comes within the ambit of the definition of 'Government Undertakings' and 'Aided Institutions' which includes Corporations as defined in Rule 2(j)(ii) of Rules of 2019. Learned counsel for the petitioner has also drawn my attention to Sub-rule 4 of Rule 1 of Rules of 2019 which stipulates the organizations which shall come within the purview of the Rules of 2019.

8. Mr. Pal, learned counsel for the petitioner has further submitted that it was the obligation of the Government of Tripura to obtain necessary permission or approval from the Union of India and Government of People's Republic of Bangladesh. The petitioner being the Managing Director, TRTC had no accessibility, to say the least, he was not the competent and authorized person to obtain such sanction/approval neither from the Government of India nor from the Government of People's Republic of Bangladesh. It was not within his knowledge whether such approval was taken by the Government of Tripura before according approval to him to proceed for recommencement of the bus service.

9. On the other hand, Mr. Sarma, learned Addl. GA appearing for the respondents-State has defended the action of the Government and he did not find any fault with the appointment of One-man Committee to inquire into the above two points. Mr. Sarma, learned Addl. GA has relied upon the

statements made in para 16, 17 and 18 and the Rule 10(1), Rule 11(2), Rule 15, Rule 22(1), Rule 22(1)(d), Rule 22(15) of Rules of 2019.

10. According to learned Addl. GA, all departments are bound to obtain prior administrative approval from the concerned department, Government of Tripura for spending more than Rs.2,00,000/- (Rupees Two Lakh) as referred to **Clause (z) of Rule 2 of Rules of 2019**. Learned Addl. GA has not seriously pressed issue no.1 as stated here-in-above and he mainly emphasized on issue no.2 as indicated here-in-above.

11. I have considered the submissions advanced by learned counsel appearing for the parties. I have also perused the relevant documents relied upon by the learned counsel appearing for the parties.

12. At the outset, it would be useful to extract the relevant provisions relied upon by the learned counsel appearing for the parties.

Rule 1 deals with **Short Title, Extent and Commencement**, which reads as under:

“1. SHORT TITLE, EXTENT AND COMMENCEMENT:

- (1) These rules may be called the ‘Delegation of Financial Powers Rules, Tripura, 2019’.
- (2) They shall come into force on and from the date of publication of this notification in the Tripura Gazette.
- (3) Save as otherwise provided in these rules, these rules shall apply to government Departments as well as Government Bodies, as defined under Rule 2.
- (4) Only Rule 9(1) (xxxiv) of DFPRT and any other specific Rule wherever mentioned will be applicable to ‘Government Undertakings and Aided Institutions’. The administrative Department may, however, issue further orders for administrative and financial control of Government Undertakings, if required.”

The expression ‘Department’ is defined under clause (g) of Rule 2 of the Rules of 2019, which reads as under:

“(g) “Department” means the Department of the State Government as notified from time to time and for the purpose of these rules includes the Governor’s Secretariat, the Legislative Assembly Secretariat, the Tripura Public Service Commission, Tripura Women Commission, Tripura Information Commission, Tripura Police Accountability Commission, Tripura Human Rights commission, Tripura Electricity Regulatory Commission and other Commissions and Government bodies set up by the State Government;”

It would be apposite to again refer to clause j(i) and (ii) of Rule 2 of Rules of 2019, which is as under:

“(j) (i) “Government bodies” means Statutory Commissions, Sub-ordinate & Attached offices, Boards, Agencies etc. that are financed and administered by the Government;
(ii) “**Government Undertakings** and Aided Institutions” means Government Companies, **Corporations**, Societies, Authority, Trusts, Autonomous bodies including Local bodies, SPV, Joint ventures as well as Grant-in-Aid/ Sponsored Institutions, which are fully or partly financed/aided or otherwise assisted by Government.”

“Administrative Department” is defined under Clause (ff) of Rule 2 of Rules of 2019, which reads as under:

“(ff) “Administrative Department” – wherever power is delegated to Department or Administrative Department, it has to be exercised by Secretary with the approval of Minister-in-charge of Department or Secretary of the Department himself if so delegated by the Minister-in-charge.”

13. On plain reading of the above definitions of the expressions mentioned in the Rules of 2019, there should not be any quarrel that the TRTC comes within the purview of the definition of ‘Government Undertakings’ as defined under Clause j(ii) of Rule 2 of the Rules of 2019.

It does not come within the definition of the ‘department’ as defined under clause (g) of Rule 2 of Rules of 2019. Sub-rule 4 of Rule 1 of the Rules of 2019 is very clear as regards the extent of applicability of Rules of 2019. Sub-rule 4 clearly speaks about that only Rule 9(1)(xxxiv) of DFPRT Rules shall be applicable to Government Undertakings. Here, it would be useful to refer Rule 9(1)(xxxiv), which reads as under:

“(xxxiv) Acceptance of Central schemes/Schemes of Financial Institutions/ NEC having state share more than 10%.”

Clause (xxxv) also may be extracted herein to examine the controversy whether prior concurrence of the Finance Department is necessary by the Government Undertaking as provided under Rule 9 of the Rules of 2019, which reads as under:

“(xxxv) Provision of clause (i), (ii), (iii), (iv), (v), (x), (xii), (xv), (xxi), (xxii), (xxiii), (xxxiii) and (xxxiv) will apply to Government Undertakings including local bodies. The non-applicability of other clauses is subject to availability of own resources to fund the activity.”

14. From the above provisions, it is clear that the subject in issue is not related to acceptance of Central Schemes/Schemes of Financial Institutions/NEC having State share more than 10% as provided under Clause (xxxiv) of Rule 9 of Rules of 2019. The issues involved in the present writ petition also do not attract any of the provision mentioned at clause (xxxv) as quoted here-in-above.

15. Most importantly, from the inquiry report it reveals that the petitioner had utilized “own resource fund” of TRTC for its activity like renovation of boundary walls of TRTC complex, Agartala, painting of the office chambers of the entire building and it is also evident that the said expenditure undertaken by the petitioner had been approved by the Board of Directors in its 177th meeting (page 53 Agenda No.1 Annexure R1 to the writ petition)

16. I have noticed the statements made by the petitioner in this regard at para 7 of the writ petition, where it is stated that:

“7) Lastly, the 'One Man Committee' report concluded that without following DFPRT, 2019, the petitioner has spent an amount of Rs. 8,74,120 for painting of TRTC International Terminus old and new building and another sum of Rs. 5,75,230 for decoration of office chamber of MD, TRTC, from own resource fund and further recommended recovery and disciplinary action against the petitioner. The humble petitioner states that the TRTC being a Corporation is guided by Road Transport Corporation Act, 1950, and the Board has the power to take decisions regarding utilisation of own resource fund. The Board of TRTC had approved the execution of the aforementioned works in the 175th Board Meeting of TRTC held on 25.08.2021 which was presided over by the Hon'ble Chairman, TRTC. Also Board of Directors of TRTC had approved the repairing, maintenance and painting works of TRTC buildings in the 177th Board Meeting held on 15.02.2022 before visit of Hon'ble Chief Minister, Tripura and Hon'ble Minister, Transport to TRTC. The works were executed on an urgent basis as there was a visit of Hon'ble Chief Minister, Tripura and Hon'ble Minister, Transport to TRTC Complex, through Tripura State Co-operative Consumers Federation Limited which is a State Government funded organisation.

Moreover, TRTC being a Corporation falls within the definition of "Government Undertakings and Aided Institutions as per Rule 2(j)(ii) of DFPRT, 2019. Rule 9 of DFPRT, 2019, speaks of inapplicability of certain provisions of DFPRT, 2019, in cases where a Government Undertakings uses own resources to fund the activity and therefore, TRTC is not required to follow all provisions of DFPRT, 2019, when it uses own resource fund. Therefore, the conclusions as formed by the One Man Committee headed by the respondent No.4 are erroneous and legally unsustainable."

The statements made in para 7 have been countered at para 16 of the counter affidavit, where it is stated *inter alia*:

"16. That in reply to averments and/or contentions made in paragraph-7 of the writ petition it is stated that, the petitioner while functioning as M.D., T.R.T.C. during the period from 17/01/2022 to 30/06/2022 has incurred authorized expenditure of Rs.8,74,120/-lakhs for painting of TRTC International Terminus, old and new and to decorate, repair and maintenance of the old TRTC building including the pantry of the boundary walls at T.R.T.C. complex, Krishnanagar in violation of financial propriety, without observing codal formalities and approval of the competent authority and in violation of existing Financial Rules (violations of provisions of Rules under 21 & Rule 22 of General Financial Rules, 2017) issued by the Ministry of Finance and as adopted by the Tripura State Government and violations of provisions of Rules under Rule 10(1), Rule 11(2), Rule-15, Rule 22(1), Rule 22(1)(d), Rule 22(15) of DFPRT, 2019 and regulations issued by Finance Department, Government of Tripura from time to time. According to the provisions of Rule-11 of DFPRT, 2019 work above Rs.2.00 lakhs requires approval of the administrative Department....."

17. I have considered the above pleadings made in the writ petition as well as in the counter affidavit. After perusal of the provisions as mentioned at para 16 of the counter affidavit, I have found that these are the rules which are applicable to 'government departments' as defined under Clause (g) and (ff) of Rule 2 of the Rules of 2019.

18. At the cost of repetition, TRTC being a Government Undertaking has limited applicability to the Rules of 2019 as embodied in Sub-rule 4 of Rule 1 of the Rules of 2019.

Again, for repetition, TRTC does not fall within the definition of 'department' as enumerated here-in-above.

19. Learned Addl. GA for the respondents-State has failed to place any record that the Government of Tripura has framed any guidelines to

regulate the administrative and financial control of Government Undertakings as provided under Sub-rule 4 of Rule 1 of Rules of 2019.

20. The One-man Committee has erroneously proceeded to the inquiry into the matter considering the TRTC as a government department which is absolutely baseless and in contravention to the provisions of Rules of 2019. It is found that One-man Committee has suggested to frame guidelines for Government Undertakings for the purpose of use of own resource fund but till today there is no record that Government of Tripura has formulated any such guideline as regards the utilization of 'own resource fund'.

21. The TRTC is set up under The Act of 1950. Section 27 of the said Act of 1950 prescribes the mechanism of utilization of 'own resource fund'. It reads as under:

“27. Fund of the Corporation :- (1) Every Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as otherwise directed by the State Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India, [or with the corresponding new banks constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)] or invested in such securities as may be approved by the State Government.”

22. A bare perusal of the above provision makes it clear that every corporation like TRTC would have liberty to use its own fund. It is pertinent to mention herein that after meticulous perusal of the inquiry report, it is found that the One-man Committee did not find any fault to the expenditures borne by the petitioner, Managing Director for decorating and renovating the TRTC complex. Only there are some allegations of violations of the provisions of Rules of 2019 which has already been discussed in the preceding paragraphs

in detail wherefrom I may unhesitantly come to the conclusion that the petitioner being the Managing Director has not violated any of the provisions of Rules of 2019 and there is no such evidence wherefrom I can detect that the petitioner was involved in committing financial irregularities in spending the amount out of own resource fund for its required activities.

23. After perusal of the records and the documents enclosed to the writ petition as annexures and the communication made under Annexure RA/1(Page 151-153 of the paper book), it cannot be disputed that necessary approval was given to the petitioner to organize the program on the occasion of the inauguration of recommencement of Agartala-Kolkata-via Dhaka Bus Service on 28.04.2022.

24. In the light of above discussions, I do not find any merit in the report furnished by the One-man Committee as stated above.

Accordingly, the report dated 04.05.2022 is set aside and quashed.

As a sequel, the instant writ petition stands allowed and thus disposed of.

JUDGE

SANJAY GHOSH Digitally signed by SANJAY GHOSH
Date: 2023.10.26 14:27:15 +05'30'

Snigdha