

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

PRESENT:

HON'BLE JUSTICE SUBRATA TALUKDAR

WP No. 8694 (W) of 2019

***Smt. Pampa Malakar
-Vs.-
The State of West Bengal & Ors.***

with

WP No. 8695 (W) Of 2019

***Smt. Jhuma Das
-Vs.-
The State of West Bengal & Ors.***

For the Petitioner	: Mr. Rameswar Bhattacharjee
In both the Matters	Mr. Ram Uday Bhattacharyya

For the State- Respondents	: Mr. Amal Kumar Sen
in W.P. 8694 (W) of 2019	Mr. Debasish Chattopadhyay

For the State-Respondents	: Mr. Amal Kumar Sen
in W.P. 8695 (W) of 2019	Mr. Jaladhi Das

Heard on	: 06/02/2020
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Judgment on	: 25/09/2020
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Subrata Talukdar, J:

Since both the writ petitions raise common questions of facts and law, they have been analogously heard and are now dealt with by this common judgement.

Both the writ petitioners are stage carriage operators on Route Nos. 234 & 234/1 which is a notified route under Section 71 (3)(d) of the Motor Vehicles Act, 1988 (since amended and referred to for short as the MV Act). The petitioner in WP 8694 (W) of 2019 (for short WP I) and WP 8695 (W) of 2019 (for short WP II) are aggrieved in common by the Resolution of the Regional Transport Authority (RTA), Kolkata (for short, RTA, Kolkata or, the said RTA) dated 15th November, 2018 wherein and whereunder the existing permits of the petitioners have been cancelled.

The petitioners submit that Section 71 (3)(d) of the MV Act is unambiguous. For the benefit of this discussion, Section 71 (3)(d) stands quoted below:-

“71.

(3)

(d) After reserving such number of permits as is referred to in clause (c), the Regional Transport Authority shall in considering an application have regard to the following matters, namely :-

(i) financial stability of the applicant;

(ii) satisfactory performance as a stage carriage operator including payment of tax if the applicant is or has been an operator of stage carriage service, and

(iii) such other matters as may be prescribed by the State Government:

Provided that, other conditions being equal, preference shall be given to applications for permits from—

(i) State transport undertakings;

(ii) Co-operative societies registered or deemed to have been registered under any enactment for the time being in force;

(iii) Ex-servicemen; [or]

(iv) Any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary.”

The petitioners submit that inspite of repeated litigation on the issue in the past, RTA, Kolkata has been unable to arrive at a decision in consonance with the letter and spirit of Section 71 (3)(d) (supra). The petitioners attribute the failure on the part of RTA, Kolkata, to a deliberate design. In this connection, the attention of this Court is drawn to the first of the series of orders on this issue dated 11th of February, 2016 in WP 2177 (W) of 2016, of which the operative part reads as follows:-

“11.2.2016

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W.P. 2177(W) of 2016

Smt. Pampa Malakar

-vs-

State of West Bengal & Ors.

Mr. Rameswar Bhattacharjee,

Mr. Dilip Mondal

... for the Petitioner

Mr. Amal Kumar Sen,

Mr. Harul Al Rashid

... for the State

Mr. Niladri Bhattacharjee,

Mr. Prithwish Kr. Basu

... for the Respondent No. 4

The affidavit of service filed by the learned Advocate for the petitioner in Court today be kept on record.

The petitioner has filed the present writ petition for a direction upon the respondent authority for grant of permit in respect of the notified route nos. 234 and 234/1.

Mr. Rameswar Bhattacharjee, learned Advocate appearing for the petitioner, submits that the petitioner sent the application for stage carriage permit in respect of the notified route nos. 234 and 234/1 through registered post and that application

has been received by the authority but the authority did not accept the application fees.

Mr. Amal Kumar Sen, learned Advocate appearing for the State respondents, submits that he has no instruction regarding the acceptance of the petitioner's application through post.

Considering the submissions advanced by the learned Advocates for the respective parties, I am of the view that justice would be sub-served if the petitioner is directed to file an application with requisite fees for stage carriage permit for the notified route nos. 234 and 234/1 within one week from date 2 before the Secretary, Regional Transport Authority, Kolkata and the Secretary, Regional Transport Authority, Kolkata is directed to receive the petitioner's application with requisite fees and after receiving the same, the Secretary, Regional Transport Authority, Kolkata will forward the said application to the respondent no. 2, the Regional Transport Authority, Kolkata, to consider the petitioner's application after giving an opportunity of hearing to the petitioner and other similarly circumstanced applicants. The respondent authority is also directed to declare further vacancies after taking steps in accordance with law against the permits which have already lapsed in the route in question and thereafter declare the vacancies against those invalid permits in accordance with law.

Needless to mention that entire exercise including communication of decision should be completed within ten weeks from the date of communication of this order.

With this direction, this writ petition is disposed of."

Next, is the order dated 26th April, 2017 in four writ petitions including the petitions filed by the present two petitioners and numbered respectively as WP No. 19265 (W) of 2016, WP No. 19266 (W) of 2016, WP No. 19267 (W) of 2016 and WP No. 22760 (W) of 2016. The petitioners, in the four writ petitions (supra), challenge the resolution of

the RTA Board dated 16th May, 2016 by which the petitioners were denied permits to operate on Route Nos. 234 & 234/1 in violation of Section 71 (3)(d) of the MV Act. The Hon'ble Court, *inter alia*, then directed as follows:-

“Having heard learned counsel representing the respective parties and on consideration of the resolution of the Board Meeting of the respondent no.2 (Annexure ‘P15’ to the writ application) I find that the respondent no.2 has considered applications of the fourteen applicants including writ petitioners by maintaining chronological order of receiving the applications. However, the financial capacity of applicant bearing serial no.10 (Joydeb Bhattacharya) was not taken into consideration before rejecting his application for grant of permit. On perusal of the provision of Section 71(3)(d) of the Motor Vehicles Act, 1988 I find that the respondent no. 2 can consider the financial stability of the applicants and the satisfactory performance of the applicants as stage carriage operators for the purpose of granting permit in the restricted route. The respondent no.2 has not followed the procedure laid down in Section 71(3)(d) of the Motor Vehicles Act, 1988 in deciding to issue offer letters to the applicants bearing serial no. 1 to 6 appearing in the resolution of the Board Meeting dated May 16, 2016 (Annexure ‘P-15’ to the writ application), as the respondent no.2 has decided to issue offer letters to the said applicants on the basis of chronological order of receiving the applications and without considering the financial stability of the respective applicants and the satisfactory performance of the applicants as stage carriage operators in the restricted route.

In view of my above findings I would like to hold that the resolution of the Board Meeting of the respondent no.2 held on May 16, 2016 (Annexure ‘P-15’ to the writ application) is not justified under the law, so far as grant of offer letters to the 6 applicants is concerned. 7 Accordingly, the said resolution of the Board Meeting dated May 16, 2016 of the respondent no.2 (Annexure ‘P15’ to the writ application) is

quashed so far as grant of offer letters in favour of the successful applicants and rejection of the applications of the unsuccessful applicants are concerned, subject to the order dated September 10, 2015 passed in W. P. 10487(W) of 2015 and W. P. 10489 (W) of 2015. The other part of the resolution of the Board Meeting dated May 16, 2016 of the respondent no.2 will remain intact. The respondent no.2 is directed to consider the applications of all the applicants including the applications of the writ petitioners afresh as per provision of Section 71 (3)(d) of the Motor Vehicles Act, 1988 and in the light of the observation made by me in this order. However, the respondent no.2 will not interfere with the offer letters granted in favour of the applicants bearing serial no. 1 and 2 as per order dated September 10, 2015 passed in W. P. 10487 (W) of 2015 and W. P. 10489 (W) of 2015.

With the above direction writ applications are disposed of.

The respondent nos.2 and 3 are directed to complete the entire exercise within a period of six weeks 8 from the date of communication of the order.”

Pursuant to the order of the Hon’ble Court dated 26th of February, 2017 (supra), the RTA Board at its meeting dated 11th July, 2017 decided on the applicants as follows:-

“

Being
dissatisfied
with the
Resolution
dated 11th
July, 2017

“Sl No.	Name	Financial Capacity (in lakh)/Ready Vehicle, if any	
1	Jayanti Ghosh	.60 Lakh and ready vehicle WB-23D/7642	
2.	Barun Dey	6.90 lakh and ready vehicle WB-23D/7741	
3	Subhas Chandra Ghosh	.73 lakh and ready vehicle WB-23D/7643	
4	Sudip Kr. Dalal	3.98 lakh and ready vehicle WB-23D/7592	
5	Subhasish Dey	6.10 lakh	
6	Tapan Malakar	3.85 lakh	
7	Ayan Kumar Dalal	4.01 lakh	
8	Joydeb Bhattacharjee	5.22 lakh	
9	Parimal Sikdar	1.19 lakh	
10	Meenashree Dutta	4.47 lakh	
11	Jhuma Das	3.01 lakh	
12	Pampa Malakar	5.36 lakh”	

(supra), one of the applicants came to Court by way of WP 24185 (W) of 2017 which was decided by the Hon’ble Single Bench on 18th May, 2018 as follows:-

“W.P. No. 24185 (W) of 2017
Tapan Malakar
Versus
The State of West Bengal & Ors.

“Having heard the learned counsel representing the respective parties and after considering all the material on record including the resolution of the Board Meeting of the respondent no.2 (Annexure ‘P-13’ to the writ application), I find that the respondent no.2 has considered the applications of the twelve applicants. The route 234 and 234/1 is a notified

route under Section 71 (3) (a) of the Motor Vehicle Act, 1988 with total fleet strength of 70. Regional transport Authority, Kolkata is under obligation to fill up the vacancy amongst the applicants strictly in terms of the provisions laid down under Section 71 (3) (d) of the Motor Vehicles Act, 1988. The respondent no.2 has not followed the procedure laid down in Section 71(3)(d) of the Motor Vehicles Act, 1988 in deciding to issue offer letters to the applicants as would be appearing in the resolution of the Board Meeting dated on 11th July, 2017 (Annexure 'P-13' to the writ application), as the respondent no.2 has decided to issue offer letters to the said applicants on the basis of extraneous considerations not prescribed in the statute inasmuch as without considering the financial stability of the respective applicants and the satisfactory performance of the applicants as stage carriage operators in the restricted route.

Moreover, so far as the requirement under Section 71 (3) (d) (iii) is concerned, nothing has been prescribed by the State Government which was taken into account by the Regional Transport Authority, Kolkata. Law is settled that any administrative decision should take into consideration all relevant factors. Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. Any departure from the procedure laid down by law should be contrary to Article 21 of the Constitution of India.

I am in respectful agreement with the view taken in the judgment Sk. Ali Haq (supra). The resolution impugned in the present writ petition shows that the prescribed criteria were not taken into consideration but on the other hand in deciding the application, the factor that weighed on the mind of the authority is foreign in the statute. Such resolution, being based on an irrelevant criteria and without taking into consideration the relevant criteria, must go and accordingly is set aside.

The respondent no. 2 is directed to consider the applications of all the 12 (twelve) applicants including

the application of the writ petitioner afresh strictly as per section 71 (3) (d) of the Motor Vehicles Act, 1988. With the above direction, the writ application is disposed of.

The respondent nos. 2 and 3 are directed to complete the entire exercise within a period of eight weeks from the date of communication of the order.”

Once again, pursuant to the order dated 18th May, 2018, the RTA Board by the Resolution impugned in the present WP I and WP II and dated 15th November, 2018 resolved as follows:-

*“*** The applicants who were issued notice for hearing appeared before the RTA Board meeting held on 15.11.2018. They were duly heard.*

As the 9 (nine) permits had been re-called by the RTA Board consequent upon the order passed by the Hon’ble High Court there arose 9 vacancies in the Route 234, 234/1.

Pursuant to the order of the Hon’ble High Court 12 (twelve) applications as submitted on 11.07.2017 along with the financial status of the said applicants were perused by the RTA Board scrupulously.

In compliance with the order of the Hon’ble High Court the RTA Board decided to issue 9 (nine) Offer-Letters to the applicants as appeared chronologically in the list, appeared on 11.07.2017, below:-

<i>Sl No.</i>	<i>Name</i>	<i>Financial Capacity (in lakh/Ready Vehicle, if any)</i>	<i>Remarks</i>
<i>01</i>	<i>Jayanti Ghosh</i>	<i>.60 lakh and ready vehicle WB-23D/7642</i>	<i>Issued Offer-Letter</i>
<i>02</i>	<i>Barun Dey</i>	<i>6.90 lakh and ready vehicle WB-23D/7741</i>	<i>Issued Offer-Letter</i>
<i>03</i>	<i>Subhas Chandra Ghosh</i>	<i>.73 lakh and ready vehicle WB-23D/7643</i>	<i>Issued Offer-Letter</i>
<i>04</i>	<i>Sudip Kr. Dalal</i>	<i>3.98 lakh and ready vehicle</i>	<i>Issued Offer-Letter</i>

05	Subhasish Dey	6.10 lakh	Issued Offer-Letter
06	Tapan Malakar	3.85 lakh	Issued Offer-Letter
07	Ayan Kumar Dalal	4.01 lakh	Issued Offer-Letter
08	Joydeb Bhattacharjee	5.22 lakh	Issued Offer-Letter
09	Parimal Sikdar	1.19 lakh	In sufficient fund, Cancelled
10	Meenashree Dutta	4.47 lakh	Issued Offer-Letter
11	Jhuma Das	3.01 lakh	No Vacancy, Rejected
12	Pampa Malakar	5.36 lakh	No Vacancy, Rejected

The RTA Board further decided to cancel the existing permits of Jhuma Das and Pampa Malakar in compliance with the direction of the Hon'ble High Court."

During the course of hearing of the present writ petitions, this Court had the benefit of perusing written instructions from the RTA Board as produced from time to time through Learned Additional Government Pleader (AGP), Mr. Sen. One such instruction bearing the Memo No. RTA/BUS/2935 dated 6th January, 2020 states as follows:-

"(4) In the year 2018, the RTA Board in its meeting held on 15.11.2018, pursuant to the order of the Hon'ble High Court, in respect of W.P. No. 24185 (W) of 2017, Tapan Malakar vs. The State of West Bengal, recalled all the 9 (nine) permits issued erstwhile, cried 9 (nine) vacancies, summoned all the empalled 12 (twelve) applicants, heard them, went through all the relevant criteria of the applicant & decided to issue fresh Offer Letter to 9 (nine) applicants/Writ Petitioners, Chronologically as they appeared in the list, Sl. No.1 to 10 barring Sl. No.9. the permit of Jhuma Das & Pampa Malakar were

cancelled in compliance with the order of Hon'ble High Court.

(5) In the year 2019, the RTA Board in its meeting held on 03.09.2019, pursuant to the order of Hon'ble High Court, in connection with the Writ Petition No. 8694 (W) of 2019 & 8695 (W) of 2019 revisited the process of issuance of Offer Letter from the very beginning number from Sl. 1 to 12. The RTA Board categorically reexamining all the individual applicant, financial capacity possessing vehicle on receipt of Offer Letter, experience in operational field, Chronology of submission of application.

The RTA Board in its meeting held on 03.09.2019 re-affirm the decision of issuance of 9 (nine) Offer Letter to the applicant from the Sl. No. 1 to 10 barring Sl. No. 9. The RTA Board also took decision on humanitarian ground to restore the permit of Pampa Malakar & Jhuma Das as and when the vacancy would arise in the route 234, 234/1.

Hence, I am directed to request you to place it before the Hon'ble High Court at the time of hearing."

On behalf of the State Respondents the stand is taken that the RTA Board examined all factors relevant to Section 71 (3)(d). It is submitted that the petitioners cannot now feel aggrieved, since the RTA Board through its instruction dated 6th of January, 2020 has resolved afresh that the permits of the present petitioners have not been cancelled and they shall be allowed to operate as and when vacancies arise.

Having heard the parties and considering the materials placed, this Court cannot fail to notice that the RTA, Kolkata, although purporting on paper to follow the mandate of Section 71 (3)(d) of the MV Act, has time and again slipped from such mandate. In spite of repeated

solemn orders of the Hon'ble Court (supra) to act in terms of Section 71 (3)(d) in the strict sense of its provisions, the RTA Board allowed itself to forget that all applicants, irrespective of the *chronological* position of their applications, stood *equally* situated as on the date the solemn orders of the Hon'ble Court directed such applications to be considered. By emphasising on the chronological position of the applicants in the face of back-to-back orders from the Hon'ble Court, including the Resolution presently impugned, the RTA Board not only did a dis-service to the strict provisions of Section 71 (3)(d) but also, either by design or oversight, failed to notice that the clock had been set equally for all the applicants, irrespective of the individual chronological position of their respective applications, by orders of the Hon'ble Court.

Again, by way of an interim direction dated 11th July, 2019, this Court was pleased to, *inter alia*, find as follows:-

“From the records of this writ petition, it transpires that the issue of permits on the Notified Routes 234 and 234/1 has been visited and revisited in several rounds of litigation before this Hon'ble Court.

At the end of every round, the Regional Transport Authority (RTA), Kolkata has been directed by the Hon'ble Court to take a decision afresh strictly in the light of Section 71(3)(d) of the Motor Vehicles Act, 1988 (the 1988 Act).

The attention of this Court is drawn to the second intervention by the Hon'ble Bench dated May 18, 2018 in WP 24185(W) of 2017 whereby the Hon'ble Single Bench was pleased to concur with the decision of the Hon'ble Concurrent Bench in Re: Sk. Alli Haque Vs. State of West Bengal reported in 2012 (2) CLJ CAL 405.

Accordingly, the RTA, Kolkata was permitted to revisit the issue of grant of permits totaling 12 in number on the Routes in issue afresh.

Mr. Bhattacharjee, Learned Senior Counsel appearing for the petitioner, next draws the attention of this Court to the resolution of the RTA, Kolkata dated 15th November, 2018 pursuant to the solemn order of the Hon'ble Single Bench dated 18th May, 2018 (supra).

From a plain reading of the comparative chart of the respective financial capacities connected to the 12 applicants, Mr. Bhattacharjee submits that it is evident that the petitioner who is at Serial No.12 enjoys a financial capacity over and above applicants at Serial Nos.10, 8, 7, 6, 4, 3 and, even Serial No.1.

Therefore, Mr. Bhattacharjee submits that the stipulation in Section 71(3)(d)(i) of the Motor Vehicles Act, 1988 connected to the financial stability of each of the applicants has been given an abject go-by by the RTA, Kolkata.

Mr. Bhattacharjee further points out that the permit of the petitioner has been arbitrarily cancelled by the RTA, Kolkata.

Mr. Sen, Learned Additional Government Pleader (AGP), submits that the petitioner cannot have any quarrel regarding revisiting the entire issue of grant of permits in respect of the 12 applicants since such revisit was necessitated by the order of the Hon'ble Single Bench dated 18th May, 2018 (supra).

However, on the aspect of respective financial capacities of each of the applicants, Mr. Sen submits that the records of the RTA, Kolkata as contained in the Resolution dated 15th November, 2018, impugned in this writ petition.

Having heard the parties and considering the materials placed, this Court finds that the RTA, Kolkata has utterly failed to apply its mind to the prescription outlined by the Hon'ble Single Bench vide its order dated May 18, 2018 which was fully in letters and spirit to the provisions of Section 71(3)(d)(i) as well as particularly with respect to Section 71(3)(d)(i).

This Court on the basis of the evidence produced, has no manner of doubt that the petitioner at Serial No.12 enjoyed the financial capacity over and above the applicants who were selected for grant

of offer letter, including her own husband at Serial No.6.

In the above premises, the resolution dated 15th November, 2018 to the extent it covers the grant of 12 permits on the Routes 234 and 234/1 stand set aside.

The RTA, Kolkata is permitted to revisit the issue again strictly in terms of the order dated 18th May, 2018 following the law laid down in 2012 (2) CLJ CAL 405 in the light of the provisions of Section 71(3)(d)(i) in order to avoid further litigation on the self-same subject.

The RTA Board shall produce its reasoned order before this Court on the next hearing.

Needless to mention such decision shall not be given effect to without the leave of the Court.

However, in order to avoid inconvenience, the status quo as on date with regard to the position of offer letters and permits connected to the offer letters arising out of the resolution dated 15th November, 2018 is allowed to be maintained for a period of three weeks from date.

Let the matter next appear under the same heading "Motions (Gr.-VII)" by date on the 1st of August, 2019.

However, in respect of the 12 permits which are under judicial review shall await appropriate directions from this Court.

Affidavit of Service filed be retained with the record."

To the mind of this Court the anomalies noticed in the Resolution impugned dated 15th November, 2018 by the order dated 11th July, 2019, were not redressed as again noticed from the Clarificatory Report received from the RTA Board at the hearing through Learned AGP.

By yet another order dated 19th November, 2019 this Court once again reminded the RTA Board of the scope of its functions *qua* the issues raised in the writ petitions:-

“W.P. 8694 (W) of 2019

Smt. Pampa Malakar

-Vs.-

The State of West Bengal & Ors.

With

W.P. 8695 (W) of 2019

Smt. Jhuma Das

-Vs.-

The State of West Bengal & Ors.

Both the writ petitions are taken up for analogous hearing.

Mr. Sen, Learned Additional Government Pleader (AGP), files a report being Memo No. RTA/BUS/2165 dated 18th November, 2019 of the Secretary, Regional Transport Authority 2 (RTA), Kolkata Region. The Memo, inter alia, reiterates the decision taken by RTA, Kolkata regarding grant of Offer Letters on the permanent stage carriage Route Nos. 234, 234/1 as resolved by the RTA board on the 15th of November, 2018.

It is further evident from the Report of the Secretary, RTA, Kolkata dated 18th November, 2019 (supra) that Rs. 3 Lakhs has been fixed as the floor level eligibility criterion for any person applying for a permanent stage carriage permit. However, from the resolution dated 15th November, 2018, it does transpire that candidates at Serial Nos. 1 and 3 have been granted Offer Letters, although the said candidates are below the minimum financial threshold of Rs. 3 Lakhs (supra). Mr. Sen submits that Section 71(3)(d) requires the RTA to take notice of other factors in addition to the financial capacities of individual candidates.

Therefore, in the facts of the present case, Mr. Sen submits that Offer Letters were granted to the successful candidates, including candidates at Serial Nos. 1 and 3, having regard to their possession of a ready vehicle and also considering the fact that permits cannot be concentrated in favour of individuals belonging to the same family. In this connection it is submitted that the writ petitioner in W.P. 8694 (W) of 2019 is the 3 wife of one Tapan

Malakar, one of the successful candidate declared by the resolution of the RTA dated 15th November, 2018.

Mr. Bhattacharyya, Learned Counsel appearing for the petitioners in both the writ petitions, submits that Section 71(3)(d) of the Motor Vehicles Act, 1988 (for short the 1988 Act) has not been complied with in letter and spirit by the RTA through its resolution dated 15th November, 2018. Mr. Bhattacharyya submits and, to the mind of this Court with good reason, that the successful candidates at Serial Nos. 1 and 3 of the Resolution dated 15th November, 2018 are respectively wife and husband.

After hearing the parties and considering the materials placed, the conscience of this Court is yet to be satisfied with regard to the complete rationale behind the resolution dated 15th November, 2018.

In such view of the matter the RTA, Kolkata is permitted to file a Clarificatory Report of its Secretary, the Respondent No. 3 to this writ petition on the next date.

Let a copy of the Report filed today as well as an advance copy of the Clarificatory Report be served to Mr. Bhattacharyya, Learned Counsel for the petitioners.

The petitioners shall be entitled to respond to both the Reports filed today dated 18th November, 2019 and the Clarificatory Report by way of a Reply Affidavit with advance copy served to Mr. Sen by the next date.

In the meantime, the RTA, Kolkata is directed not to convert the Offer Letters granted by the resolution dated 15th November, 2018 into full-fledged permits and, in the event, permits have been granted the fate of the permits shall ultimately abide by the result of these writ petitions.

The petitioners are further directed to serve notice of this order on the non-appearing private respondents and file a comprehensive affidavit on the next date.

Let the matter next appear under the heading "For Orders" within the first five matters in the Combined Monthly List of January, 2020."

Having given its anxious consideration to the Orders and Reports as above, this Court finds the Clarificatory Report dated 6th of January, 2020 (supra), to be inadequate. The RTA Board has been unable to explain the rationale to adopt the *chronological* criterion in the backdrop of the strictest application of Section 71 (3)(d) as repeatedly directed by the Hon'ble Court.

Apropos the above discussion, the Resolution impugned dated 15th November, 2018 stands set aside.

The RTA Board, Kolkata is directed to take a decision afresh, not later than eight weeks from the date of communication of this order, by treating all applicants, including the present petitioners, as *chronologically one* as on the date of the Judgement and Order of the Hon'ble Court dated 18th May, 2018 (supra) and accordingly apply the provisions of Section 71 (3)(d) of the MV Act.

W.P. No. 8694 (W) of 2019 with **W.P. No. 8695 (W) of 2019** stand thus **allowed**.

All parties to act on a server copy of this order downloaded from the official website of the Hon'ble Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Subrata Talukdar, J.)

