

S/L 10
26.03.2021
Court. No. 23
suvayan

WPA 5729 of 2021

Subhas Chatterjee & Anr.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Arabinda Chatterjee
Mr. Kakali Dutta

...for the Petitioner.

Mr. Srijan Nayak
Mrs. Rituparna Maitra

...for the State.

Affidavit of service filed in Court today, is kept on record.

The respondents have been served. The envelop said to be containing the writ petition sent to the respondent nos. 10 and 13 have returned undelivered with endorsement in respect of respondent no.10 “insufficient address” and ‘not found’ in respect of respondent no.13. The State is represented, however, respondent nos.9, 11, 12, 14 and 15 despite service remain unrepresented. In such facts and circumstances the matter is taken up for hearing in their absence.

The petitioners are the joint owners of a vehicle having registration No.WB 67B/3015 which is operated against a permanent stage carriage permit issued on 8th September, 2017 and valid till 6th September, 2022. The petitioner alleges that the private respondents being the respondent Nos.9 to 15 had obstructed the plying of the vehicle by the petitioners in terms of the stage carriage

permit. The route permit as appears is from Joydev to Bandwan via Muchipara, Durgapur Railway Station, Barjora, Beliatore, Bankura Bus Stand, Indpur Khalna, Ranibandh, Jhilimili.

On behalf of the State it is submitted that the police authority on receiving the complaint from the petitioners have acted promptly and have initiated a proceedings under Section 107 of the Code of Criminal Procedure, 1973 (in short CRPC). The State respondents also submit that on enquiry, the police authority has come to know that no one has obstructed the petitioners from plying the stage carriage. There appears, according to the police authorities a dispute inter se between the petitioner and the private respondents. The police authorities, therefore, should not be hauled up for police inaction.

The petitioners have a valid stage carriage permit which unless terminated gives the petitioner right to ply the same by complying with the allotted time table and other provisions of law. The livelihood of the petitioners are dependant on operating the stage carriage. In the event the petitioners are prevented from operating the stage carriage, the fundamental right of the petitioners as guaranteed under Article 19(1)(g) of the Constitution of India is infringed unless there is any violation from the petitioners side which restricts the petitions from operating such stage carriage.

Assuming without admitting that there are disputes inter se between the petitioner and the private respondents

then also it does not absolve the police authorities from their responsibility to ensure that the petitioner is able to operate the stage carriage. If this stand i.e. the police has no responsibility when some overt act of another has infringed the fundamental right of another person is taken by the police authorities then there will be serious law and order situation. The public interest element will also suffer in the instant case if the petitioners are unable to operate the stage carriage apart from the petitioners livelihood as public transport element is also involved in plying the same.

The police report in form of instruction given to the advocate for the State which is made over to the taken on record with a copy served upon the petitioners also does not disclose any prima facie right of the respondent nos. 9 to 15 in preventing the petitioners from plying the vehicle in question. The stage carriage permit of the petitioners are also not of suspect. In absence of any conflicting right as to the ownership of the vehicle and the stage carriage, the petitioners are entitled to ply the vehicle as per time table in accordance with law in terms of the stage carriage permit through the route as provided by the State Transport Authority.

The police authorities being the respondents Nos.7 and 8 are directed to see that the petitioners can ply their vehicle as per the time table and through the route sanctioned by the State transport Authority without any

interference from the side of the respondent nos.9 to 15, if the vehicle is otherwise plied in accordance with law.

The petitioner also alleges that the vehicle in question is now lying at Gobindanagar Bus Stand and cannot be removed by the petitioners due to the obstruction from the side of the respondent nos.9 to 15. The respondent nos.7 and 8 should after enquiry find the petitioners contention to be prima facie correct also render assistance to the petitioners in removing the vehicle from Gobindanagar Bus Stand. So that the respondent nos.9 to 15 does not create any obstruction or hindrance in doing so.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties on upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)