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(Via Video Conference)

W.P.A. 9021 OF 2021

Mahiuddin Mallick

Vs.

State of West Bengal & Ors.

Mr. Dilip Kunar Samanta
Mr. Biswapriya Samanta.

.... For the Petitioner

Mr. Srijan Nayak
Ms. Rituparna Maitra.

.... For the State

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an impugned order dated February 26, 2021 passed by the Secretary, State Transport Authority, West Bengal (hereinafter referred to as the “STA”).

The facts of the case are that the petitioner sought for renewal of the permanent stage carriage permit, which has expired in 2016.

By an order dated January 21, 2021, a coordinate Bench of this High Court had directed, the representation made before the Secretary, STA to be considered by the Secretary within a period of eight weeks.

Mr. Samanta, counsel appearing on behalf of the petitioner submits that on the date of hearing, even though the Secretary, STA was present, the entire proceeding was carried out by the Deputy Secretary, STA.

According to him, the Secretary, STA erred in law by allowing the Deputy Secretary, STA to hold the hearing. He accordingly prays that the impugned order to be quashed and set aside and a direction be given for a fresh hearing.

Mr. Nayak, counsel appearing on behalf of the STA submits that the allegations made by the petitioner are baseless. Hearing was conducted by the Secretary, STA and Deputy Secretary, STA assisted the Secretary, STA in the said hearing. He has filed supplementary instruction in Court. The same be kept with the records.

In my view, the very fact that the Secretary, STA was present during the hearing closes lid on the entire dispute. The disputed question of fact raised by the petitioner that the hearing was not conducted by the Secretary, STA is of no relevance and cannot be decided in a writ petition. The impugned order has been passed as per the direction of the coordinate Bench and the petitioner had liberty to challenge the said order on merits and not on the ground of non-compliance of the order passed by the coordinate Bench.

In light of the above submissions, this writ petition is disposed of with liberty granted to the petitioner to approach the appropriate forum, if so advised, challenging the merits of the impugned order.

There will be no order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Shekhar B. Saraf, J.)