

19.08.2021

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(Via Video Conference)

W.P.A. 12633 of 2021

With

I.A. CAN 1 of 2021

Arun Kumar Saha & ors.

Vs.

State of West Bengal & ors.

Mr. N. I. Khan

Mr. B. K. Samanta

... for the petitioners

Mr. Pantu Deb Roy

Mr. Subrata Guha Biswas

... for the State

Mr. Debabrata Saha Roy

Mr. Debashis Saha

Ms. Dipika Basu

Mr. Neil Basu

Mr. Souvik Dian

... for the applicant

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by an order dated June 28, 2021 passed by the Secretary, Transport Department, Government of West Bengal in relation to cancellation of the permits that had been earlier issued to the petitioners with regard to plying of Stage Carriage Buses in route no.24A/1.

2. It is to be noted that the order was passed by the Secretary, Transport Department, Government of West Bengal upon a specific direction passed by the coordinate Bench of this Hon'ble High Court vide order dated February 5, 2021 in **W.P.A. No.3196 of 2021** in the matter of **KAMAL DAS & ANR. Vs. STATE OF WEST BENGAL & ORS.**

3. Mr. Debabrata Saha Roy, Counsel appearing on behalf of Kamal Das and Siddhartha Mukherjee, the applicants in I.A. CAN 1 of 2021 which relates to prayer for adding the applicants as party-respondents in this writ proceeding.

4. It appears from the records that it is upon the writ petitions of these two parties that the earlier order of February 5, 2021 was passed. In fact, these writ petitioners had also appeared in the hearing subsequent to which the impugned order was passed.

5. In light of the same, I allow the application being I.A. CAN 1 of 2021 and direct the department to add the applicants herein as party-respondents in the instant writ proceeding.

6. On consent of all the parties, the instant writ petition is taken up for hearing.

7. Mr. Khan, Counsel appearing on behalf of the petitioners has vehemently argued this case, placed the resolution of the Regional Transport Authority dated December 13, 2019 and submitted that a well-reasoned order was passed in the said resolution wherein the permits of the five petitioners were cancelled, and

thereafter, fresh offer letters were issued in favour of the five writ petitioners.

8. Mr. Khan relies upon paragraphs 5.2 and 5.5 of the judgement of the Division Bench in **Sujata Ganguly & ors. Vs. State of West Bengal & ors.**, reported in **2008(2) CHN 728** to buttress his arguments that vacancies were required to be filled up in terms of Notification dated 20th May, 2003 issued under Section 71(3)(a) of the Motor Vehicles Act, 1988.

9. Mr. Pantu Deb Roy, Counsel appearing on behalf of the State and Mr. Debabrata Saha Roy, Counsel appearing on behalf of the added respondents have vehemently opposed the submissions made by Mr. Khan. They have submitted that the impugned order clearly sets out the reason for cancellation of the permits of the petitioners. The relevant extract of the impugned order is provided below :

“ ”

In compliance to the order dated 18.07.2019 i.c.w. W.P. 9887(W) of 2019 and W.P. 9892(W) of 2019, RTA Kolkata issued 5 (five) new offer letters to the petitioners in cancelation of 5 nos. of non-operating permits in the Route 24A/1 from ‘Mukundapur to Howrah’, on the basis of the field enquiry and hearing of all concerned. But at the time of issuance of these 5 nos. of new offer letters, the direction given in Transport Department Notification No.3438-WT/3M-139/2004 dated 2.8.2004 was not observed properly.”

10. Mr. Saha Roy has placed the decision in the case of **Sujata Ganguly** (supra) and relied on paragraph 5.1 to indicate that no permit can be issued in violation of the policy dated 6th August, 2004 and thereafter has placed paragraph 5.5 to show that it is only in cases of vacancy that fresh offer letters can be issued.

11. I have heard learned Counsel for the appearing parties and perused the materials on record.

12. In my opinion, the order impugned has categorically provided the reasons for cancellation of the permits of the petitioners. Furthermore, the petitioners are not able to indicate to this Court any notification on the basis of which vacancies had been declared for the particular route in question. As such, it appears that the resolution dated December 13, 2019 wherein fresh offer letters were issued in favour of the writ petitioners were in contravention to the existing law and were not based on any notification that had sought for vacancies to be filled up.

13. In light of the above discussions, there is no requirement for any interference of the order assailed before this Court.

14. Accordingly, this writ petition is dismissed.
However, no order as to costs.

15. Urgent photostat certified copy of this order, if
applied for, be given to the parties on usual undertaking.

(Shekhar B. Saraf, J.)