

Ct. 05
Item No.1
16.03.2022
BM

WPA 4017 of 2022

[Via Video Conference]

**M/s. Taraknath Transport Society
Vs.
The State of West Bengal & Ors.**

Mr. Bhaskar Nandi
... for the petitioner
Mr. Amal Kumar Sen
Mr. Swapan Kumar Pal
... for the State

The challenge in the present writ petition is a communication of the State Transport Authority dated 15th December, 2021 rejecting the petitioner's prayer for renewal of permit in the route Krishnanagar to Tarakeswar. The reason for rejection is that the time table produced by the petitioner along with the permit is in reverse direction i.e. Tarakeswar to Krishnanagar. The petitioner was therefore, requested to produce a new time table in accordance with actual route of the permit i.e. Krishnanagar to Tarakeswar. According to learned counsel, the State authorities have renewed the petitioner's permit eight times in the last forty years. Counsel places documents in this regard.

Learned counsel appearing for the State respondents submits that the petitioner has to

conform to the definition of “route” under The Motor Vehicles Act, 1988 and produce a timetable from Krishnanagar to Tarakeswar and not the other way round. Counsel relies on a decision reported in AIR 2016 Cal 324 which held that the timetable must reflect the originating point and the termination point in accordance with concept of “route” as defined under the Act.

The short point which arises for consideration is whether the term “route” would exclude travel in the reverse direction. The term “route” has been defined under Section 2(38) of the Act as follows:-

“2(38) “route” means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another.”

The words used in the definition give rise to the following presumptions:

- i) The travel along a highway is between two endpoints.
- ii) The point of origin of travel and the terminus is not indicated in the definition.
- iii) The route of travel is not unidirectional, hence includes travel from

one end point to another and in the reverse direction.

- iv) The common usage of point A to point B are random alphabets put in to mean two different end points and do not mean a point of origin or a terminus.
- v) The absence of the word “to” and the use of “and” indicates the absence of a point of origin and a terminus.

The above presumptions are in line with the definition of the term “route” under Section 2(38) of the Act. In any event, it is inconceivable that a vehicle would travel on two different up and down trips if the time table is indicated in the reverse.

The ground on which the impugned order is passed presumes that the reverse timetable produced by the petitioner i.e. from Krishnanagar to Tarakeswar would entail a different route as compared to Tarakeswar to Krishnanagar.

The impugned order dated 15th December, 2021 does not indicate any reason as to why the reverse direction from Tarakeswar to Krishnanagar is contrary to the definition under Section 2(38) of the Act particularly where the authorities have renewed the permit of the petitioner under the same time table for eight years prior to the impugned order.

Although *Bimal Kumar Das v. State of West Bengal* has been relied on by the learned counsel appearing for the State, the said decision as well as the decision relied on by the learned counsel appearing for the petitioner in W.P 3392 (w) of 2019 proceed on facts which cannot be said to be identical to the present application. In *Bimal Kumar Das*, the question before the court was whether the rejection of the time table proposed by the petitioner for plying of his vehicle was in accordance with Section 2(38) and Section 72 of the Act and the court took into consideration the fact of a provisionally approved time table which had been granted to the petitioner in that case. WPA 3392 (w) of 2019 (*Ghosh Transport Bus Services v. State of West Bengal*) dealt with a case of a combined timetable issued to the petitioner and the private respondent which caused a clash of timings and required rectification of the terminal points.

Notwithstanding the findings of this court, the petitioner shall be at liberty of making a fresh application by producing a timetable in terms of the permit granted to the petitioner within ten days from date. The authorities shall decide the said application within a fortnight from the date of

receiving the application under the relevant provisions of the 1988 Act.

The impugned order dated 15th December, 2021 is set aside and WPA 4017 of 2022 is disposed of in terms of the order.

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

(Moushumi Bhattacharya, J.)