

5th April,
2022
(AK)
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W.P.A 5136 of 2022

Samaresh Bhattacharya
Vs.
State of West Bengal and others

Mr. D.K. Samanta
Mr. B.P. Samanta

...for the petitioner.

Mr. Pantu Deb Roy
Mr. Anand Farmaria

...for the State.

The limited grievance of the petitioner is that, despite a specific direction of a coordinate Bench of this court dated January 14, 2022 and subsequently by the concerned District Magistrate and Chairman of Regional Transport Authority, Purba Bardhaman dated February 10, 2022, to act on the petitioner's proposed time-table, the respondent authorities have qualified the offer of the petitioner for running a vehicle on a particular route by arbitrarily adding an extra rider to the effect that the last trip of the route shall be run by the petitioner.

It is submitted by learned counsel, by placing reliance on several unreported judgments of this court, in particular, the judgments of coordinate Benches of this court dated September 25, 2014 passed in W.P. 26253(W) of 2014 and the order dated January 8, 2016 passed in W.P. 22070(W) of 2015, that the courts had directed in the said matters that the time table as suggested by the

petitioner be approved; in the event it was seen that the said time table clashes with the time table of any other operator or otherwise causes public inconvenience, the courts held that it would be within the jurisdiction of the concerned authority to seek alteration of the time table applying the provisions of Rule 119 of the West Bengal Motor Vehicles Rules, 1989.

Learned counsel appearing for the respondent authorities submits that the cited judgments as well as the direction given in this particular case by a previous coordinate Bench contemplate that the time table has to be clash-free with other operators.

As such, it was within the jurisdiction of the respondent authorities to stipulate that the last trip of the route shall be run by the petitioner, in order to ensure that there is no clash with the time tables of other operators.

However, it is evident that as per Item no.6 of the offer sent in terms of the resolution of the RTA Board meeting dated September 18, 2021 as annexed at page-58 (Annexure-P6) of the writ petition, production of clash-free time table duly signed by the applicant for proper notification by the office intimation to the existing operators was one of the pre-conditions of issuing the permit in favour of the petitioner.

Such stipulation takes sufficient care of the apprehended clash with the time tables of existing

operators who may be running their vehicles already on the same route.

Hence, stipulation no.10, that is, the mandate that the last trip of the route shall be run by the petitioner accordingly, is superfluous and tantamounts to modifying the offer of the petitioner.

However, needless to say, in the event it is seen that the petitioner cannot produce a clash-free time table duly signed by the petitioner for proper notification and/or that there is any specific valid objection to the time table suggested by the petitioner, it will be within the domain of the respondent authorities to seek a modification of the suggested timings of the petitioner to avoid such clash.

However, as it is, Item no. 6 of the offer dated March 8, 2022 to the petitioner, sufficiently covers the issue and Item no.10 is superfluous and redundant.

Accordingly, WPA 5136 of 2022 is disposed of by striking out Item no. 10 of the offer letter dated March 8, 2022, annexed at page-58 (Annexure-P6) of the writ petition.

The other clauses of the said offer letter shall be retained as they are.

However, it is made clear that in the event a clash is actually apprehended between other routes and/or the time tables of existing operators and that suggested by the petitioner, it will be within the authority of the

respondents to seek an alteration in the time table from the petitioner.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)