

AD. 187.
May 13, 2022.
MNS.

WPA No. 5936 of 2022

Sri Ashim Bera
Vs.
The State of West Bengal and others

Mr. Sanat Kumar Roy,
Mr. Abhishek Banerjee

...for the petitioner.

Mr. Moloy Krishna De,
Mrs. Rupsha Chakraborty

...for the State.

The grievance of the petitioner is that the petitioner's application for grant of contract carriage permit for plying an 'auto rickshaw' on a particular route was dismissed by the respondent-authorities. The initial ground for dismissal was that the petitioner was to apply in prescribed format before the office counter of Motor Vehicle Sections, Hooghly, along with a copy of the letter dated February 25, 2021, which is annexed at page 13 of the writ petition.

Subsequently, pursuant to a direction dated September 2, 2021 passed by a co-ordinate Bench in WPA No. 13016 of 2021, the petitioner's application for Contract Carriage Permit to ply his auto rickshaw was again taken up and the application was refused vide the communication dated December 13, 2021 on the ground of non-compliance of Notification No. 268-WI/3M-01/2010 dated January 29, 2010 issued

by the Transport Department, Government of West Bengal. It was alleged that the petitioner's route covers more than three kilometers on an existing bus route, which is in contravention of the provisions of the said Notification.

Learned counsel for the petitioner, by placing reliance on a map obtained from the website of 'Google Maps' for the relevant route, which is annexed at page 18 of the writ petition, submits that, contrary to the allegation made by the respondent-authorities, the route does not cover more than three kilometers on any existing bus route. Apart from the distance, which was wrongly quoted by the respondent-authorities in their refusal, it is submitted that the concerned route, for which permit was sought by the petitioner, does not have any other existing bus route.

By placing reliance on the provisions of the relevant Notification dated January 29, 2010, it is argued that none of the provisions of the same will be violated if the permit is granted to the petitioner, as per the petitioner's application.

Learned counsel appearing for the respondent-authorities, by placing reliance on a Route Enquiry Report, issued by the M. V. Inspector (N.T), Serampore, Hooghly, which is annexed at page 6 of the affidavit-in-opposition, contends that the relevant route for which permit was sought by the

petitioner, being Route No. 366, runs from Uttarpara Railway Station to Bally Khal via Joykrishna Street, in respect of which, the distance comes to approximately 2.8 kilometers, which is within the stipulated bar of 3 kilometers.

However, the petitioner, while applying for a permit to ply his auto rickshaw on the said route, mentioned that R. S. Verma Road and N. S. Road are also included on the alignment of the registered Route No. 366 Auto, which is incorrect.

It is contended that, as such, being in contravention of the concerned Notification, the said application of the petitioner was rightly rejected. However, as disclosed in the rejection letter, the respondent-authorities shall consider in the event the petitioner applies afresh for permit in respect of a different route, which is available.

Learned counsel appearing for the petitioner, relying on the affidavit-in-reply of the petitioner, categorically submits that the route disclosed by the respondent authorities in their enquiry report has a different alignment from that of the route applied for by the petitioner, although the terminus points are same.

That apart, it is contended that since no bus plies on the route regarding which the petitioner applied for permit, the bar as stipulated in the

Notification dated January 29, 2010 is not applicable on such score as well.

However, learned counsel for the writ petitioner submits that, in the event the respondent authorities assure that a permit will be granted to the petitioner for the route as specified in the affidavit-in-opposition, the petitioner is agreeable to apply afresh for such route.

At this, learned counsel for the respondent-authorities contends that the said route is no longer vacant for being allotted to further vehicles.

Upon a consideration of the materials on record, it is evident that the question as regards the exact distance of the route on which the petitioner seeks to ply his vehicle, and as to whether there is any existing bus route on the same, are debatable questions and require evidence and materials to be considered for the purpose of coming to a conclusive decision thereon.

However, since the impugned refusal does not disclose such specification and does not even reflect any enquiry on such aspect of the matter, it would be appropriate if the respondent-authorities reconsider their decision in respect of granting Contract Carriage Permit to the petitioner for a third time, taking into consideration the complaints made in the affidavit-in-reply of the petitioner in the present matter.

As such, WPA 5936 of 2022 is disposed of by directing respondent no. 3, that is, the Regional Transport Authority, Hooghly, to reconsider the application of the petitioner for grant of Contract Carriage Permit on the route-in-question, by taking into account all the issues raised by the petitioner in the affidavit-in-reply as well as the writ petition itself, undertaking an enquiry on the relevant aspect on the basis of materials available or a fresh enquiry, if necessary, to deal with the issues agitated by the petitioner and, thereafter, to pass a reasoned order, in the light of the observations made above.

Such reconsideration, as directed above, shall be concluded within June 15, 2022. It is made clear that the respondent no. 3 shall give adequate opportunity of representation or being heard to the writ petitioner to ventilate the specific issues raised by the petitioner before this Court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)