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06.06.2022
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WPA No.7730 of 2022

Ashis Kumar Goswami
Vs.
The State of West Bengal and others

Mr. Sattwik Bhattacharyya,
Mr. Aashutosh Bhattacharyya
.... for the petitioner

Mr. Srijan Nayak,
Mrs. Rituparna Maitra
.... for the State

Learned counsel for the petitioner contends that the respondent-authorities refused to exercise jurisdiction vested in it by law by rejecting the petitioner's request for curtailment and extension of an existing route on which the petitioner has been plying his vehicle.

It is contended that although similar curtailment and extension were granted in other cases, relevant documents in which regard have been annexed to the writ petition, the same were refused to the petitioner merely on the ground that the said curtailment and extension, if considered, would give

rise to a totally new route which does not exist in the relevant Reciprocal Transport Agreement, 2004 between the states of West Bengal and Jharkhand.

However, it is argued that, on a conjoint reading of Sections 80(3) and 88 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the 1988 Act”), there is sufficient scope for extension of a route, as sought by the petitioner, subject to reciprocal agreement between the two states.

Learned counsel appearing for the respondent-authorities submits that although there is scope of variation of a route, if by virtue of such variation, the respective termini are altered, no such variation can be permitted. In this context, learned counsel places reliance on the last proviso to Section 80(3) of the 1988 Act, Clause (i) of which provides that in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometers.

However, learned counsel for the petitioner contends that the very next Clause, that is, Clause (ii) of the same proviso clearly indicates that, in the case of extension, the distance covered by extension shall not exceed twenty-four kilometers from the termini, which by itself, envisages the alteration of the termini. Moreover, the said proviso goes on to say that any

such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof. Section 88, on the other hand, provides for the validation of permits for use outside the region and stipulates the situations in which such validation is permitted.

Hence, it is argued that there is ample scope for consideration of the alteration of termini as well, subject to the rider that the distance covered by extension shall not exceed twenty-four kilometers from the termini.

Upon perusal of the materials annexed to the writ petition and the relevant provisions of law, it is clear that similar curtailment and extension as the petitioner's was allowed in the case of other operators on similar routes, where also the termini were altered.

Moreover, the term "extension" takes within its fold the alteration of the termini. One cannot imagine an extension of a route unless at least one of the termini is altered, although such alteration may not be permissible in case of an application which seeks merely the variation of the route.

Since the last proviso to Section 80(3) of the 1988 Act, as rightly contended by the petitioner, also contemplates the extension of the existing route, there cannot be any bar on the respondent-authorities to have considered the petitioner's request for curtailment and extension, and the refusal of the same merely on the ground that no such route exists, and it will tantamount to creation of a new route, was patently illegal.

Even in Clause 8F of the Notification published by the Government of West Bengal, Transport Department on March 29, 2004 in the Official Gazette, Extraordinary, in case of Inter-State routes, it is contemplated that any change or correction in any Clause of the agreement or any addition or deletion of routes or any correction or change in the alignment of routes shown in the Reciprocal Transport Agreement may be done by the mutual consent after discussion. Hence, there is sufficient scope for the respondent-authorities to have considered the petitioner's application for curtailment and extension of the existing route even on a change of termini if the provisions of law, in particular Section 80(3), last proviso to the 1988 Act are otherwise complied with.

In such view of the matter, the rejection of the petitioner's application for curtailment and extension

by the impugned resolution dated August 24, 2021, being on grounds not tenable in law, is set aside.

WPA No.7730 of 2022 is disposed of by directing the respondent-authorities to reconsider the petitioner's application for curtailment and extension of the route afresh, without being prejudiced in any manner by any of the observations made in the resolution dated August 24, 2021, which stands hereby annulled.

It is made clear that the authorities shall ascertain whether all the yardsticks of curtailment and extension of the route, as envisaged in law, are adhered to by the petitioner; however, the mere ground that the curtailment and extension would cause the formation of a totally new route shall not come in the way of granting such permission to the petitioner, if otherwise permissible in law. Necessary reciprocation in that regard, if necessary, may also be sought from the Jharkhand authorities in that regard. The fresh consideration to the petitioner's application shall be completed as expeditiously as possible, upon giving a further right of hearing in the event the authorities feel it necessary, positively within four weeks from date.

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.)