

AD. 11.
June 27, 2022.
MNS.

WPA No. 10990 of 2022

Dhwjati Prasad Mondal and others
Vs.
The State of West Bengal and others

Mr. Sakti Pada Jana,
Mr. Subhajyoti Dhar
...for the petitioners.

Mr. Bibek Jyoti Basu,
Mr. Debapriya Chatterjee
...for the State.

Learned counsel for the petitioners contends that on an arbitrary alteration of the time table for plying of vehicles by the petitioners, the petitioners had challenged such alteration in a writ petition, bearing WPA 19469 of 2021, which was disposed of by a co-ordinate Bench on December 30, 2021 with the direction on the State respondents to hear the petitioners and all the concerned Stage Carriage bus owners as to extension of the time table immediately and consider the representations made by them for renewal of the time table and dispose of the same without any delay by a reasoned order.

It is submitted that, thereafter, the time tables were altered again and again on several occasions and were extended for short durations. The last such extension was apparently till June 30, 2022. However, it is contended that all such extensions have been given for short periods of fifteen days

each, without giving any opportunity of hearing to the petitioners and/or other Stage Carriage operators on the other routes between Haldia and Mecheda, as directed in WPA 19469 of 2021.

Learned counsel places reliance on the provisions of Section 72 of the Motor Vehicles Act, 1988 (the 1988 Act) and submits that it has been specifically stipulated in Clause (iv) of Sub-section (2) of the said Section that copies of the time table of the stage carriage approved by the Regional Transport Authority (RTA) shall be exhibited on the vehicles and at specified stands and halts on the route or within the area.

Clause (xxii) of Sub-section (2) stipulates that the RTA may, after giving notice of not less than one month, vary the conditions of the permit and/or attach to the permit further conditions. However, the said provisions have been flouted by the authorities by denying any opportunity of hearing to the petitioners and other Stage Carriage Operators.

Learned counsel for the petitioners places reliance on several objections annexed to the present writ petition, both at the behest of the petitioners individually and from the Stage Carriage Owners' Association concerned.

Learned counsel lastly submits that the time tables are being issued in a consolidated manner whereas Sub-section (2) of Section 72 provides for

individual notice prior to varying the conditions of each permit.

Learned counsel appearing for the respondent authorities submits that already the permits have been extended and such extension is now subsisting. That apart, it is contended that the objection given by the petitioners shall be decided by the respondent authorities as per direction of this Court.

It is seen from Section 72(2)(xxii) that the RTA may vary the conditions of a permit or attach to the permit further conditions only after giving notice of not less than one month to the concerned operator.

No provision of consolidated variance, which has been done by way of publication of consolidated timetables at short intervals of fifteen days, is found within the four corners of the Statute.

Moreover, it is seen from the order dated December 30, 2021 passed in WPA 19469 of 2021 that the State respondents were specifically directed to hear the petitioners and all the concerned Stage Carriage owners as to extension of the timetable immediately thereafter and consider the representations made by them for renewal of the time table and thereafter to dispose of the same without any delay by a reasoned order. It does not appear from the records that any such reasoned order has been passed and/or hearing has been given to the applicants.

Learned counsel for the respondent authorities submits that he does not have any instruction at present as regards whether the applicants were heard or not. It is evident from the materials annexed to the writ petition that no reasoned order was passed prior to the limited extensions.

Moreover, as rightly contended by learned counsel for the petitioners, there is no provision in the Statute for a consolidated alteration of all the time tables of related routes, as done in the present case.

That apart, it is mandatory under Section 72(2)(xxii) of the 1988 Act for the RTA to give not less than a month's notice prior to varying the conditions of the permit, which covers alteration of time tables as well.

The same having not been done, there is nothing to assure the Court that such exercise will be followed on the subsequent occasions by the RTA.

The limited extension of fifteen days each time, which is being lately granted, obviates any scope of giving a month's notice, in any event.

Hence, the respondent authorities ought to be directed to decide the objection of the petitioners and the issue of alteration, even in the event no objection is given, at an individual level, upon giving opportunity of hearing, together or separately, to

each of the operators who are affected by alteration of time table.

Accordingly, WPA No. 10990 of 2022 is disposed of by directing the Regional Transport Authority, Purba Medinipur, that is, the respondent no. 2, to give at least one month's notice to the concerned operators, including the petitioners, plying vehicles on the routes between Haldia and Mecheda, prior to bringing about any alteration in the time table or vary the conditions of their permits and/or attach to the permits further conditions, as contemplated in Section 72(2)(xxii) of the 1988 Act.

Only upon such opportunity of hearing having been given to the individual operators, time tables for each of such operators shall be varied and/or altered, if at all, in accordance with law.

However, in the instant case, since no such notice has apparently been given by the respondents prior to alteration of time tables periodically, irrespective of written objection being given by the operators, it is the incumbent duty of the respondent authorities to alter the time tables only upon giving such hearing to the petitioners upon notice of not less than one month for each of the operators. Such exercise, in the event the respondent authorities seek to vary or alter the time tables further, shall be undertaken upon issuance of individual notice(s) of

one month to the concerned operator(s), as directed above.

To facilitate smooth plying of the vehicles already operating on the route and for the sake of certainty and uniformity in the mind of the passengers and consignors using such vehicles, the last extended timetable, which is annexed as Annexure –P6 at page 71 of the writ petition, which was extended lastly till April 30, 2022, shall be followed by all the route operators between Haldia and Mecheda, including the petitioners.

It will be deemed that unless the respondents issue further notices for the purpose of variation or alteration of such time table, the said time table will be deemed to stand extended automatically till July 31, 2022. In the event any alteration is required to be made subsequent to July 31, 2022, prior hearing in compliance with Section 72(2)(xxii) of the 1988 Act shall be given to the concerned operators individually. Otherwise, in the event no such notice and/or hearing is given to the operators, subject to compliance of all other formalities by the respective operators, the respondent authorities shall grant due extension for a reasonable period to the permits of the operators subsequent to July 31, 2022.

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.)