

09.09.2022
KC(13)

M.A.T. 1102 of 2022
Samaresh Bhattacharya
-versus-
State of West Bengal and Ors.
With
CAN 1 of 2022

Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta.....For the appellant.

Mr. Srijan Nayak,
Ms. Rituparna Maitra.....For the State.

Mr. N.I. Khan,
Mr. Amlan Kumar Mukherjee.....For the private
respondent.

This is an appeal from a judgment and order dated 7th July, 2022 made by a learned single judge in the exercise of his writ jurisdiction.

The writ involved consideration of Rules 118 and 119 of the West Bengal Motor Vehicles Rules, 1989.

It appears that the appellant had applied for a permit along with the proposed timetable to operate a stage carriage in a particular route. The timetable, as submitted by the appellant, was not accepted by the authority and he was asked to submit a clash free timetable.

By the judgment and order dated 7th July, 2022 the writ application was dismissed. The learned judge observed that the permit could not be granted to him on

the basis of a provisional or proposed timetable.

Thereafter, the learned judge went on to add :

“However, it is made clear that as and when the petitioner submits a clash-free time-table to the respondent-authorities, the latter shall take necessary steps to issue the permanent permit of the petitioner at the earliest thereafter. Nothing in this order shall prevent the respondent-authorities from doing so.”

We do not think that this would solve the problem. On our reading of Rules 118 and 119 we have ascertained that there is provision in the Rule for submission of a proposed timetable and then alteration thereof by the authority during the process of its consideration so that there is no clash of routes.

This was appreciated by the Hon’ble Mr. Justice Aniruddha Bose in a ruling dated 25th September, 2014 in W.P. 26253(W) of 2014 (Samaresh Bhattacharya -vs- State of West Bengal and Ors.) wherein His Lordship observed and held as follows:

“In this matter the offer letter has been issued. Let the timetable of the petitioner as proposed be approved. In the event it is seen that the said timetable clashes with timetable of any other operator or otherwise causes public inconvenience, it would be within the jurisdiction of the concerned authority to seek alteration of the timetable applying the provisions of Rule 119 of the West Bengal Motor Vehicles Rules, 1989. In the event, it has already been found by the concerned authority that there is direct clash of the proposed timetable with the timetable of any other operator, the said fact shall be communicated to the petitioner forthwith so that the petitioner can take appropriate measure and the dispute can be resolved.

The writ petition stands disposed of in the above terms. There shall, however, be no order as to costs.”

We would follow this order.

We direct that the appellant/writ petitioner would be at liberty to re-submit a proposed timetable to the authority by 30th September, 2022 which should be considered by it according to the said judgment and order dated 25th September, 2014 of Bose, J. Such consideration should be made in accordance with law and by a reasoned order.

The appeal (M.A.T. 1102 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)