

WPA 8470 of 2020

Dulal Chandra Ghosh
Vs.
State of West Bengal & Ors.

Mr. N.I. Khan
Mr. Amlan Kr. Mukherjee

...for the petitioner

Mr. Amal Kr. Sen, Ld. AGP
Mr. Lal Mohan Basu

..for the State

In this writ petition petitioner has questioned the resolution adopted by the Regional Transport Authority in its board meeting held on 14th July, 2020 wherein Dulal Chandra Ghosh, being the petitioner herein, along with another candidate namely Surojit Ghosh were permitted to operate their vehicle on the diverted route Hatiara to SDF. Primarily the petitioner is aggrieved by such resolution of the Regional Transport Authority as submitted by Mr. N.I. Khan, learned advocate representing the petitioner that such decision was taken without affording opportunity to make deliberation by the petitioner before the concerned authority of the Regional Transport Authority, Kolkata. On drawing attention of this Court to page 114 of the writ petition it has been submitted that a notice dated 28th July, 2020 was issued by the Secretary, RTA, Kolkata Region whereby petitioner

was requested not to ply his vehicle on route no. 30C, 30C/1 in view of the judgement of the Hon'ble Division Bench dated 11th February, 2020 but before taking decision by the RTA in the board meeting on 14th July, 2020 to the extent of permitting petitioner to ply his vehicle on the diverted route Hatiara to SDF he was not informed to present his case to the concerned authority of the RTA Kolkata Region. Writ petitioner has prayed for opportunity of being heard and making representation in this regard before the decision to be taken by the concerned authority of the RTA Kolkata Region based on permit issued in favour of the petitioner to ply his vehicle on route no. 30C, 30C/1 which is subsequently found to be impermissible in view of the judgement of the Hon'ble Division Bench dated 11th February, 2020.

Fact remains petitioner got the necessary permission and permit to ply vehicle on route no. 30C, 30C/1 based on the decision of the Principal Secretary, Transport Department dated 22nd January, 2016 whereby fleet strength of route no. 30C, 30C/1 was enhanced from 50 to 70. In view of enhancement of fleet strength to the extent of 20 in number, 20 candidates were selected by the concerned authority of RTA, Kolkata Region but out of these 20 candidates, 2 candidates were not able to place their vehicle at the material point of time which resulted in grant of permission and subsequent issuance

of permit in favour of the petitioner and Surojit Ghosh. Petitioner was ultimately granted permit but subsequently the decision to enhance the fleet strength was set aside by a coordinate Bench on a writ petition filed by the existing operators of route no. 30C, 30C/1 and such decision of the coordinate Bench was upheld by the judgement of the Hon'ble Division Bench dated 11th February, 2020. The relevant part of the judgement of the Hon'ble Division Bench is quoted below:-

“38. Since, therefore, both the appeals fail on all the points urged, we dismiss the appeals and uphold the quashing of the impugned reasoned order dated January 22, 2016, its correction by way of a corrigendum dated March 4, 2016, and the notification dated June 17, 2016 published in the Official Gazette on June 30, 2016, and direct that the appellant no. 1 in MAT 1620 of 2017 being the State of West Bengal through its appropriate officer, preferably the Principal Secretary, Department of Transport, and if there is no Principal Secretary, then the Secretary, Department of Transport, considers and disposes of the representation made by the appellants in MAT 1443 of 2017 as exhibited as Annexure P/3 to WP No. 14545 (W) of 2015, after due enquiry as already directed by the order dated July 31, 2015 passed in the said writ petition, without giving any opportunity of being heard to any person, but after satisfaction of the conditions mentioned in Section 71 (3) (a) read with Section 67 (3) of the said Act of 1988, in the light of the

*notification dated August 2, 2004 published in the Official Gazette extraordinary Part I on August 6, 2004 and in strict compliance therewith, and in compliance with the judgement in the case of **Sujata Ganguly (supra)**, as expeditiously as possible, but positively within a period of three months from the date of communication of this order and give effect thereto. It is needless to mention that no effect can be given to any permit for stage carriages on the said routes issued after increase of fleet strength over and above those existing under the notification of August 2, 2004 published on August 6, 2004. This will, however, not prevent the appellants in MAT 1443 of 2017 and the added parties to apply afresh for permits if the fleet strength is increased after completion of the exercise mentioned above. This order shall also not prevent the appellants in MAT No. 1443 of 2017 from seeking variation of their routes to ensure that they do not pass through the Central Business District of Kolkata and if any such representation is made, we are sure that the concerned respondent authorities will consider the same in accordance with law and pass necessary orders as expeditiously as possible.”*

In view of such decision of the Hon’ble Division Bench Mr. Amal Kr. Sen, learned Additional Government Pleader submits, there is no scope at the present moment to permit the petitioner to ply his vehicle on route no. 30C and 30C/1. It has also been submitted by

Mr. Sen that since vehicle has already been placed by the petitioner and such vehicle cannot ply on route no. 30C and 30C/1 the decision was taken in the board meeting of RTA on 14th July, 2020 and the petitioner was advised to ply his vehicle on the diverted route Hatiara to SDF.

Since the petitioner is aggrieved by such decision of the RTA whereby permission is accorded to him to ply on such diverted route of Hatiara to SDF without granting opportunity of hearing to him, this Court finds it apposite to set aside such decision of the RTA taken in its board meeting dated 14th July, 2020 whereby petitioner was permitted to operate on the said diverted route. Petitioner is granted liberty to make comprehensive representation to the concerned authority of the RTA, Kolkata Region within a period of fortnight from this date and if such representation is made the concerned authority of RTA shall take decision on such representation of the writ petitioner within a period of 4 (four) weeks thereafter upon granting opportunity of hearing to the petitioner. The decision to be taken by the concerned authority of RTA shall be communicated within a period of 2 (two) weeks thereafter.

With the above direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)