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jdt.

27.03.2023
jb.

W.P.A. 4549 of 2023
(Sk. Anahar Ali & Ors. vs. State of West Bengal & Ors.)

Mr. N. I. Khan
Mr. Amlan Kr. Mukherjee
.... For the Petitioners
Mr. Pantu Deb Roy
Mr. Subrata Guha Biswas
.... For the State

Affidavit of service filed on behalf of the petitioners is taken on record.

It is contended on behalf of the petitioners that the petitioners are stage carriage permit holders in the routes Memari to Jamalpur, Nabadwip Town to Tarakeshwar and Memari to Tarakeshwar respectively. Pursuant to an order passed by a co-ordinate Bench of this Court on 5th January, 2010 in W.P. No. 22994(W) of 2009 directing the State Government to formulate an appropriate policy in the matter pertaining to grant of auto rickshaw permit in the State, the Transport Department issued a notification on 29th January, 2010 which was published on 15th February, 2010 wherein certain guidelines for granting auto rickshaw permit in the State were issued. The said guidelines are as hereunder:

- “1. No new auto-rickshaw permits should be granted in routes and areas falling within the jurisdiction of Kolkata Metropolitan-Area;
2. No new auto-rickshaw permit should be granted in routes and areas covering more than one district;
3. No new auto-rickshaw permit will be allowed on National Highways except crossing such NHs at recognized points;
4. Plying of new auto-rickshaws on State Highways shall be restricted upto a stretch of maximum 3 kms;

5. No new auto-rickshaw permit will be issued covering more than 30% of existing bus routes in roads other than NH/SHs;
6. Grant of 3-wheeled auto-rickshaw permit within a particular district only may, however, be considered by the concerned RTA of the District after taking into consideration the road condition, congestion of road traffic and safety and security of the passengers travelling in such 3-Wheeled Auto Rickshaw as aforesaid, within the ambit and scope of the Motor Vehicles Act, 1988 and rules framed thereunder.”

It is submitted on behalf of the petitioners that the State respondents have, in the resolution of their board meeting held on 3rd December, 2022 accepted the applications made by several operators in violation of the said notification. The petitioners made a comprehensive representation before the concerned authority in this regard on 11th January, 2023 requesting immediate steps to recall/withdraw/rectify the decision taken by the authority in the board meeting in respect of grant of auto rickshaw permit.

It is submitted on behalf of the respondents that enquiry with regard to grant of new permits has commenced.

However, since the representation submitted on behalf of the petitioners is pending before the authority, this Court is inclined to hold that the concerned authority being the 2nd respondent herein be directed to consider the representation submitted by the petitioners.

Accordingly, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representation submitted by the petitioners upon holding enquiry with regard to issuance of contract carriage permits in respect of auto rickshaw in the light of

the notification issued on 29th January, 2010 and pass a reasoned order in this regard within two months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioners, in accordance with law.

Pending disposal of the representation, no further new permit shall be issued by the authority in respect of three-wheeled auto-rickshaw in violation of the notification issued on 29th January, 2010

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)