

10.05.2023
rc/ct.no.10
Item No.119

WPA No. 7172 of 2023
with
CAN No. 1 of 2023
Sarkar Enterprise & Anr.
Versus
The State of West Bengal & Ors.

Mr. Sanat Kumar Roy
Mr. Abhishek Banerjee ...for the petitioners

Mr. Pantu Deb Roy
Mr. Subrata Guha Biswas ...for the State

Re : CAN No. 1 of 2023

The petitioners/applicants pray for amendment of the writ petition on the ground that during pendency of the writ petition the prayer of the petitioners/applicants for extension of the tenure of the offer letter was turned down by the respondent authorities and communicated to the petitioners/applicants by a letter issued on March 16, 2023.

Heard learned counsels appearing on behalf of the parties.

The proposed amendment is in conformity with the averments of the writ petition, shall not change the nature and character of the writ petition and is required to be allowed for effective adjudication of the writ petition.

Accordingly, the amendment sought for by the petitioners/applicants is allowed.

The Department is directed to incorporate necessary amendment in the writ petition in terms of the application.

The application being CAN No. 1 of 2023 is disposed of accordingly.

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Report in the form of affidavit submitted on behalf of the 4th respondent and exception used by the petitioners to the said report are taken on record.

Heard learned counsels appearing on behalf of the parties.

It is contended on behalf of the petitioners that in considering the application filed by the petitioners for grant of inter regional stage carriage permit, the respondents, by a resolution taken in the board meeting dated December 08, 2023 approved the application of the petitioners subject to condition that the applicants/petitioners would submit detailed route alignment showing specific region and/or district with classification, etc. without attaching any area restricted under Notification No. 3428-WT/3N-139/2004 dated August 02, 2004. The petitioners submitted relevant documents in terms of the said resolution before the concerned authority on January 24, 2023 and requested grant of offer letter in terms of the resolution. In the meantime the concerned authority issued an offer letter to the petitioners on January 02, 2023 requesting the latter to comply with the terms and conditions mentioned in the said letter with 30 days from the date of the issuance of

the letter. The petitioners were handed over a copy of the offer letter on February 28, 2023 following which they prayed for extension of the tenure of the offer letter by a letter issued on March 02, 2023. During the pendency of the writ petition, the prayer of the petitioners was turned down by the authority as communicated by a letter issued on March 16, 2023.

It is submitted on behalf of the petitioners that since the offer letter was issued by the authority without waiting for compliance of the directions given in the resolution by the petitioners, validity of the offer letter ought to be extended upto 6 months from the date of issuance of the same in terms of Rule 141 of the West Bengal Motor Vehicles Rules, 1989 (hereinafter referred to as the “Rules of 1989”) . Also, no opportunity of hearing was granted to the petitioners before the application for extension of tenure was turned down.

It is submitted on behalf of the State-respondents that the prayer for extension of the tenure of the offer letter was turned down by the authority in terms of Rule 141 of the Rules of 1989 and no exceptional circumstances has been made out by the petitioners for extension of the said tenure for a period of six months.

The resolution taken in the board meeting of the authority demonstrates that the prayer of the petitioners would be approved subject to certain conditions. Such conditions were fulfilled by the petitioners by a letter

accompanied by relevant documents submitted before the authority on January 24, 2023. Since the petitioners fulfilled the conditions recorded in the resolution only on January 24, 2023, it is not clear as to under what provision the authority issued the offer letter on January 02, 2023 despite the petitioners not having complied with the conditions as laid down in the resolution. Moreover, the application made by the petitioners for extension of the tenure of the offer letter was turned down by the authority without the petitioners being given an opportunity of hearing to explain their stand. Issuance of the offer letter by the authority prior to the petitioners fulfilling the conditions made out in the resolution and rejecting the prayer of the petitioners for extension of the tenure of the offer letter are, *prima facie*, not explained/clarified.

In view of the above, this Court is inclined to hold that the order/ letter dated March 16, 2023 is required to be set aside and the matter be revisited by the authority upon granting an opportunity of hearing to the petitioners.

Accordingly the order communicated through letter issued on March 16, 2023 be set aside.

The concerned authority being the 4th respondent herein, is directed to revisit the issue in the light of the observations made in this order upon affording reasonable opportunity of hearing to the petitioners, in accordance with law.

The entire exercise should be completed within six weeks from the date of communication of this order.

The decision taken by the authority shall be communicated to the petitioners within a week thereafter.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)