

WPA 9180 of 2018

Shampa Mukherjee @ Sampa Mukherjee
Vs.
The State of W.B. & Ors.

Mr. N. I. Khan
Mr. A. K. Mukherjee ...for the petitioner.

Mr. Srijan Nayak
Ms. R. Maitra ...for the State.

Affidavit-in-opposition filed by the respondents and affidavit-in-reply used by the petitioner are taken on record.

Heard learned counsels for the parties.

The resolution taken by the RTA Board on 31st December, 2014, rejecting the application of the petitioner for issuance of permit is assailed in the writ petition.

It is contended on behalf of the petitioner that in rejecting the petitioner's application, the authority has stated that there has been contravention of guideline Nos. (iii) and (vii) of the Memo dated 21st August, 2014. The order is not supported by any reason.

Referring to the Memo dated 21st August, 2014, on the basis of which the prayer of the petitioner was rejected, learned counsel submits that though the said notice was issued in terms of the notification dated 29th January, 2010, the notification of 2010 does not include

guideline No.(iii) which demonstrates that the proposed route should cover at least 80 per cent of the rural area. The other guideline being No.(vii) is, of course, reflected in the 2010 notification.

Learned counsel for the respondents submits that since the notice of 2014 was issued subsequently, there may have been change in the situation which warranted the authority to add the third guideline in the said notification in addition to the guidelines set out in the earlier notification of 2010.

It is not in dispute that guideline No.(iii) of the Memo dated 21st August, 2014, is in addition to the guideline stated in the notification dated 29th January, 2010 though the notice states that guidelines in the said notice has been issued in terms of the notification of 2010.

Also, the resolution impugned is bereft of reasoning. Besides the one-liner that is reflected in the resolution, no explanation/reasoning has been assigned by the authority as to why the petitioner is not entitled to be favoured with the permit as requested by him.

In view of the above, this Court is inclined to hold that the matter be remanded back to the concerned authority, being the 2nd respondent herein, for taking a fresh decision in the matter, in terms of the notification dated 29th January, 2010.

Accordingly, the resolution impugned dated 31st December, 2014 insofar as the petitioner is concerned (Serial No.269) is set aside.

The writ petition is disposed of directing the 2nd respondent to revisit the issue in terms of the notification dated 29th January, 2010 upon affording reasonable opportunity of hearing to the petitioner and take a reasoned resolution to that effect within six weeks from the date of communication of this order.

However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)