

17.10.2023
Court No. 13
Item No. 4
AP

MAT 1330 of 2019
With
IA NO: CAN 2 of 2023

Dakshineswar Auto Rickshaw Sramik Union and Anr.
Vs.
The State of West Bengal & Ors.

Mr. Sankar Prasad Dalpati
Mr. Pritam Chaudhury
Mr. Abhisek Addhya

... For the Appellants.

Mr. Amal Kumar Sen
Mr. Ayan Banerjee

... For the State.

Mr. Sanat Kumar Roy
Mr. Baidurya Ghosal
Mr. Abhishek Banerjee

... For the Respondent Nos.9 to 16.

1. The appeal arises out of a judgement and order dated 27th August, 2019 passed by a Single Bench of this Court in WP 6602(W) of 2019 wherein two issues have been decided.

2. Firstly, the locus of the writ petitioner/appellant association to espouse the cause of individual auto rickshaw permit holders. The second issue was whether the State had authority to exceed the limit set by itself of grant of 80 permits for plying auto rickshaws on Route no. 304 between Dunlop to Bally via Dakshineswar.

3. Single Bench relying upon a decision of a Division Bench of this Court in the case of ***Siliguri Inter District Minibus Owners' Association & Ors. Vs. Sri Bijon Krishna Bhowmick*** reported in **(1993) 2 Cal LJ 99** was of the view that the vehicle owners association cannot espouse

the cause of its members unless there is some interest of the association itself has in the claims and grievances of a particular permit holder.

4. This Court notes from the facts of the said case that the writ petition therein was filed by an individual permit holder. It is at the appellate stage that the association came into picture and sought leave to file the appeal. It is in those peculiar facts and circumstances of the case that the Division Bench held that a route permit holders association, cannot maintain a writ petition or seek to file appeal without demonstrating appropriate interest in the list agitated by the individual permit holder before the Single Bench. The said decision would have no application in the facts of the case.

5. This Court is therefore in respectful disagreement with the views of the Single Bench on the first issue. The writ petition by the Association is maintainable.

6. On the second question, the private respondents have candidly admitted before this Court that the maximum number of permits that can be granted on said Route 304 is 80.

7. Counsel for the private respondents submits that they have been granted three permits within the limit of 80.

8. Mr. Sen, learned counsel for the State, is unable to offer any comments at this stage and the same is subject to verification of records.

9. Learned counsel for the appellant submits that the three private respondents, who have been granted permits, are outside the maximum limit of 80. These are questions of fact that cannot be gone into by the Single Bench or this Court.

10. The Regional Transport Authority (RTA), North 24 Parganas at Barasat shall therefore carefully look into the records and ensure and ascertain as to whether three new permits granted to the private respondents cross the limit of 80 permits for the said route. If so, appropriate action shall be taken to terminate the permits. If, however, the permits are within the limit of 80, they shall be allowed to continue.

11. Let a suitable decision be taken by the RTA in this regard within 2 months from date.

12. The balance/unfilled slots for grants of permits, if any, may also be considered for filling up by the RTA above in accordance with law.

13. Until such time the appellants shall not disturb the peaceful plying of the auto rickshaws by the private respondents. The S.P., Barasat, shall ensure the same.

14. Let a copy of this order be sent by the parties to the S.P. Barasat.

15. With the aforesaid observations, the appeal shall stand disposed of.

16. In view of the above, connected pending applications, if any, shall also stand disposed of.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)