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jdt.

20.02.2023
jb.

W.P.A. 22871 of 2022
(Dipak Samanta vs. State of West Bengal & Ors.)

Mr. Bhaskar Nandi
.... For the Petitioner

Mr. Pantu Deb Roy
Mr. Pannalal Bandyopadhyay
.... For the State

Heard learned counsels for the parties.

The petitioner has assailed the decision taken by the RTA Board in the meeting held on 25th May, 2022 rejecting the application of the petitioner for grant of stage carriage permit on the ground of limited vacancy.

It is not in dispute that the route in question is a notified route with limited vacancy. The petitioner has various grievances against the order impugned.

At the outset learned counsel for the petitioner submits that the resolution was taken in the absence of quorum and, therefore, is not acceptable in the eye of law. Further, it is not reflected in the resolution that the provisions of Section 71(3)(d) of the Motor Vehicles Act, 1988 has been complied with by the authority in taking the decision. Out of 31 candidates who applied before the authority, 12 were allowed in view of 12 vacancies in the route in question. It is not in dispute that 11 permits have already been issued and offer letter with regard to the 12th permit has

lapsed, thereby giving rise to a single vacancy in the route. It is pointed out on behalf of the petitioner that though five vehicles were placed by the petitioner, only 4 vehicles were taken into consideration by the authority who granted 6 marks to the petitioner for the same instead of 10 marks. The petitioner has submitted that the marks awarded to the petitioner lacks proper reasoning and transparency. The petitioner prays for reconsideration of his application by the authority.

Learned counsel for the respondents submits that admittedly there is a single vacancy in the route in question and the petitioner is at liberty to apply for permit in the said route afresh.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since irregularities and anomalies *prima facie* appear in the decision taken by the authority, the authority be directed to reconsider the application of the petitioner in the light of the resolution of RTA Howrah dated 9th January, 2014 as well as the provisions laid down under Section 71(3)(d) of the Motor Vehicles Act, 1988, in accordance with law.

The order of rejection with regard to the application filed by the petitioner communicated to the petitioner by a letter issued on 30th June, 2022 is set aside.

In view of the above, the writ petition is disposed of directing the concerned authority being the 2nd respondent herein to reconsider the application made by the petitioner and take a reasoned decision thereon in the light of the resolution of RTA Howrah dated 9th January, 2014 as well as the provisions laid down under Section 71(3)(d) of the Motor Vehicles Act, 1988 without being influenced by the earlier resolution taken by the authority on 25th May, 2022 upon affording reasonable opportunity of hearing to the petitioner within one month from the date of communication of this order, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

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.)