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11.05.2023
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction**

**MAT 9 of 2023
With
CAN 1 of 2023**

Siliguri Inter District Mini Bus Owners
Association & Ors.
-versus
The State of West Bengal & Ors.

Mr. N. I. Khan
Mr. Nabankur Paul
...For the appellants.

Mr. Hirak Barman
Ms. Bedashruti Bose
...For the State.

Mr. Bikramaditya Ghosh
... For the NBSTC.

Mr. Raja Saha
Mr. Sanjoy Mukherjee
Mr. Subham Chanda
... For SJDA

In the instant appeal, the appellants, being the writ petitioners in WPA 3429 of 2022, have challenged the order dated 5th January, 2023 by which the writ petition was dismissed.

The grievance of the appellants encircles around the decision of the North Bengal State Transport Corporation (in short, NBSTC), in putting up fencing in between Tenzing Norgay Central Bus Terminus (hereinafter referred to as the said “bus stand”), Siliguri, demarcating the zone to be used by NBSTC for parking

their vehicles and the private bus operators from parking their vehicles. The other facilities which were agreed in terms of the notification dated 20th April, 1990 and the minutes of the meeting held on 23rd June, 1990, appear to remain unchanged.

The writ petition was dismissed on the ground that the writ petitioners have no legal right to seek order as prayed for in the writ petition.

After hearing the parties and going through the records and in particular the photographs annexed to the stay application, we are, *prima facie*, convinced that the fencing put up by the NBSTC authorities does not curtail any right of the passengers using the private bus services which are allowed to be parked in a portion of the said bus stand. The bus operators may face prevented if they are not allowed to park their vehicles in the said bus stand and complaint of their right if any analogous to easementary right to be infringed but that is not the case of the appellants. So far as any property right is concerned we are at ad-idem with the learned Single Judge.

In the aforesaid facts and circumstances, we are not inclined to interfere with the order impugned dated 5th January, 2023.

However, keeping in mind the interest of the passengers who are availing the private bus services from the said bus stand, we direct the Advisory Council, Central Bus Terminus, Siliguri, to look into the issues raised by the private bus operators in the light of any inconvenience caused to the passengers who are using the private bus service from the said bus stand due to the fencing being put up inside the bus stand.

The Advisory Council, shall as soon as possible, preferably with six weeks from date, hold a meeting to decide on the issue.

The appeal along with the connected application for stay stands disposed of accordingly.

There shall be no order as to costs.

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

(Arindam Mukherjee, J.)

(Ananya Bandyopadhyay, J.)