

ORDER SHEET
WPO/1400/2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TUMPA DE
VS
STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SUVRA GHOSH

Date : 20th July, 2023.

Appearance :
Mr. Sankar Nath Mukherjee, Adv.
Mr. Niraj Gupta, Adv.
...for the Petitioner

Mr. Pantu Deb Roy, AGP
Mr. Subrata Guha Biswas, Adv.
...for State

The Court : The affidavit of service filed by the petitioner is taken on record.

None appears for the State respondent despite service.

Mr. Deb Roy, who is present in Court along with his junior and usually represents the State, is requested to represent the State in this matter.

The appointment of Mr. Deb Roy and his learned junior Mr. Subrata Guha Biswas be regularized by the office of the learned Advocate-on-record. The petitioner is directed to serve copy of the writ petition to Mr. Deb Roy in course of the day.

The decision taken by the Chairman State Transport Authority, West Bengal in its meeting held on 28th April, 2023 is under challenge in the writ petition.

The application for permit filed by the petitioner was rejected by the concerned authority on the ground that the route involved in the permit originated and terminated in the same region/district and the number of region was one.

It is submitted on behalf of the petitioner that the State Transport Authority, West Bengal has the power to grant permit in favour of the petitioner in the inter-regional route Jhalda (Paschim Medinipur) to Masaria (Purba Medinipur) via Chandaneswar (Odisha). Such permit was granted by the State Transport Authority on an earlier occasion to one Purnendu Sahoo and the petitioner is entitled to the same benefit.

The petitioner seeks reconsideration of his application by the authority.

Section 69(2) of The Motor Vehicles Act, 1988 enumerates that the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

In the case in hand, the applicant admittedly resides in the State of West Bengal and has his principal place of business herein. A notification has been issued by the Government of West Bengal on 6th November, 1995 in terms of Section 69(2) of the Act of 1988, authorizing the State Transport Authority, West Bengal to deal with applications for permits made under Section 69(1) of the Act of 1988. The permit in question covers the District of Paschim Medinipur and Purba Medinipur in the State of

West Bengal and Chandaneswar in the State of Odisha and as such, the provision of Section 69(2) of the Act of 1988 is applicable in the case of the petitioner.

In view of such provision, the State Transport Authority is the only authority to consider the application filed by the petitioner under Section 69(2) of the Act.

In view of the above, this Court is inclined to hold that the decision taken by the State Transport Authority needs to be set aside and a direction be given to the State Transport Authority to reconsider the prayer of the petitioner in terms of the provision laid down under Section 69(2) of the Act, 1988.

Accordingly, the decision taken by the Chairman State Transport Authority in its meeting held on 28th April, 2023 is set aside.

The State Transport Authority, being the second respondent herein, is directed to reconsider the application of the petitioner in terms of the provision laid down under Section 69(2) of the Motor Vehicles Act, 1988 and pass a reasoned order within six weeks from the date of communication of this order upon affording reasonable opportunity of hearing to the petitioner, in accordance with law.

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

The writ petition being WPO/1400/2023 is disposed of.

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

Since no affidavit has been invited, the allegations made in the writ petition are deemed not to have been admitted.

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

(SUVRA GHOSH, J.)