

OD-2

WPO/1530/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TUMPA DE

-VERSUS-

STATE OF WEST BENGAL AND ORS.

BEFORE

The Hon'ble Justice SUVRA GHOSH

Date: 16th November, 2023

APPEARANCE:

Mr. Snakar Nath Mukherjee, Adv.
Sk. Samim Akhtar, Adv.
Mr. Niraj Gupta, Adv.
Mr. Afroja Nurul, Adv.
...for the petitioner.

Mr. Pantu Deb Roy, Adv.
Mr. Subrata Guha Biswas, Adv.
...for the State-respondent.

The court: Heard learned counsels for the parties.

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

The application for issuance of permit filed by the petitioner was turned down by the authority by the decision impugned on the ground that since the route applied for originates and terminates in the same region and number of

region is one, the applicant should apply before the Regional Transport Authority for issuance of permit.

It is submitted on behalf of the petitioner that the State Transport Authority, West Bengal has been empowered to grant permit in favour of the petitioner in the inter-Regional route - Jhalda(Paschim Medinipur) to Masaria(Purba Medinipur) via Chandenswar (Odisha) by a notification issued by the Government of West Bengal, Transport Department on 6th November, 1995. The petitioner seeks reconsideration of his application by the authority and issuance of permit in his favour.

Placing reliance on the report in the form of affidavit submitted on behalf of the respondents, learned counsel for the respondents submits that since the proposed route is from Masaria to Jhalda, covering two districts, the petitioner ought to have applied before the Regional Transport Authority in terms of Section 69 of the Motor Vehicles Act, 1988. Referring to Section 88(1) of the Act of 1988, learned counsel submits that since part of the route lying in the other State does not exceed 16 kilometers, permit shall be valid in the other State notwithstanding the fact that it has not been counter-signed by the State Transport Authority or the Regional Transport Authority of the other State.

It appears that the petitioner applied for stage carriage permit in the route Masaria (Purba Medinipur) to Jhalda (Paschim Medinipur) via Chandeneswar (Odisha). The notification issued by the Government of West Bengal, Transport Department on 6th November, 1995 in terms of Section 69(2) of the Act of 1988 envisages that all applications for permit made under Section 69(1) of the Motor Vehicles Act, 1988 for any vehicle or vehicles proposed to be used in two or more regions lying in West Bengal and any other State shall be made to the State Transport Authority, West Bengal by an applicant residing in West Bengal or having his principal place of business in West Bengal. It is not in dispute that the petitioner is a resident of West Bengal and has his principal place of business herein.

Section 88(1) of the Act of 1988 deals with plying of vehicles where the starting and terminal point of the route is within the same State and the vehicle does not traverse another State beyond 16 kilometers. The provision says that in such case counter-signature of the State or Regional Transport Authority of the other State is not necessary for plying the vehicle in the said State. In the case in hand, since the petitioner has applied for issuance of permit and

not for counter-signature, the provision laid down under Section 88(1) of the Act has no manner of application herein.

Learned counsel for the State-respondents has relied upon a notification issued by the Government of West Bengal on 8th March, 2013 in support of his contention. The said notification demonstrates that applications for permits of all kinds of vehicles that would ply in three regions lying within the same State will be made to the regional transport authority of the region in which the major part of the proposed route lies. The present case pertains to issuance of permit in respect of route covering two different States and, as such, the notification dated 8th March, 2013 cannot come to the aid of the respondents in the present case.

In view of the notification issued on 6th November, 1995, the State Transport Authority is the only authority who has been empowered to consider the application filed by the petitioner under Section 69(2) of the Act of 1988.

In view of the above, the decision taken by the State Transport Authority, West Bengal in its meeting held on 28th April, 2023 in so far as the petitioner is concerned, 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 provisions laid down under Section 69(2) of the Act of 1988 as well as the notification dated 6th November, 1995 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/1530/2023 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.)