

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(APPELLATE SIDE)**

**Present:
The Hon'ble Justice Rai Chattopadhyay**

WPA 7230 of 2024

**Sambit Ghosh & Ors.
Vs.
The State of West Bengal & Ors.**

For the Petitioners : Mr. N. I. Khan,
: Mr. A. K. Mukherjee.

For the State : Mr. Pantu Deb Roy, A.G.P.
: Md. Pannalal Bandopadhyay.

**Heard on : 05/07/2024
Judgment on : 05/07/2024**

Rai Chattopadhyay, J.

1. The petitioners are the permanent permit holders being Bus Syndicate Office Bearer of route 46, 46A, 46B and 46C and that of Bus Owners Welfare Association, of route 215 and 215/1.
2. They have alleged *inter alia* in this writ petition that the permit holders and operators, in notified route no. 211 and 211B have violated the specific route alignment for the said route. Allegedly, they have plied their bus through the alignment of other route, which is in contravention of the statutory provisions and conditions of permit. By violating the law in that way the operators thereof are traversing through the route alignment of bus operators of no. 46, 46A and 46B, that is the petitioners.
3. Also that the bus operators have allegedly been violating the legal mandate, by using either differently coloured Board or no Board, affixed

in the bus. Therefore, it is alleged that the operators of route no. 211 and 211A are operating illegally and unauthorisedly in violation of the permit conditions and the provisions under Section 72 (2) (1) of the Motor Vehicles Act, 1988.

4. On these allegations the writ petitioners have made a written complaint before the Secretary, Regional Transport Authority, North 24 Parganas, which was received in his office on June 20, 2022.
5. At present the writ petitioners are aggrieved of the resolution of the Board Meeting of Regional Transport Authority, Kolkata, dated October 10, 2023. In the present writ petition, the petitioners have challenged the decision thereof, by virtue of a resolution dated October 21, 2023. The same is sought to be set aside.
6. Mr. Khan and Mr. Deb Roy appears for the petitioner and the respondents respectively. According to Mr. Khan the complaint of the petitioners as above was addressed by the Board, by dint of its meeting resolution dated September 20, 2022. The decision as was taken then has not been followed up by the concerned authority at the subsequent times. On the contrary, the impugned resolution has not taken care of about the compliance or not by the respondents, of the direction of the Board vide the first resolution dated September 20, 2022. Therefore, Mr. Khan seeks an appropriate relief for the petitioners, that is by setting aside the impugned resolution dated October 10, 2023. He has also sought for appropriate direction to ensure due compliance of decision of the Board, in its earlier resolution dated September 20, 2022.
7. Mr. Deb Roy is, however, raising strong objection as to the contentions and prayer made on behalf of the writ petitioners. By referring to the report submitted by the authority in the form of an affidavit, Mr. Deb Roy says that all possible steps in due compliance with the resolution of the

Board has been taken by the concerned respondent authority and also that according to the enforcement report no illegality is being continued any further. Mr. Deb Roy seeks that the writ petition should be dismissed.

8. On the allegation against the respondent bus operators as above, the Board has taken decision on September 20, 2022, as follows :-

“The RTA Board discussed the matter and decided to give a time opportunity of 10 days to the route committee of route 211/211A/211B to submit an affidavit with declaration of compliance to the original route alignment permitted by RTA and maintenance of uniformity regarding route number plate displayed front of bus. Secretary, RTA is also requested to send intimation to Enforcement Wing to keep regular vigil on plying of buses in Route no. 211/211A/211B and take appropriate action against violation noticed, if any.”

9. In a subsequent meeting dated September 8, 2023, the Board has decided that the present petitioners, that is, objectors in case of route operators of 211, 211A and 211B and the Route Committee of the said route would be heard. Thereafter, the impugned resolution that is taken in the Board meeting dated October 10, 2023. The following decision was taken.:-

“(03) W.P.A No. 15181 of 2023, Sambit Ghosh – vs- The State of West Bengal & Ors.

Resolution :- The President/Secretary of route 211, 211A, 211B appeared before the RTA Board & they were duly heard. The petitioner, Sambit Ghosh & ors. remained absent.

(06) Proposal along with a mass petition from the President of North Eastern Bus Syndicate, Route 211, 211A, 211B dated 13.02.2023.

Resolution : - The objectors, President/Secretary of route 46, 46A, 46B Bus Syndicate, 215 & 215/1 Route Bus Owners Welfare Association & Route Committee of Route No. 211, 211A, 211B appeared before the RTA Board & they were duly heard. The objectors had withdrawn their objections in the proposed route alignment, submitted by the route committee of 211B.

The RTA Board thoroughly discussed the matter & considering all aspect on public interest decided to approve the proposed route diversion of route 211B.

The operators of route 211, 211A, 211B are to endorse the new route alignment in their permits within 01 (one) month, after paying the requisite fees.”

10. The petitioners' first grievance is that on the relevant date that is the date of the impugned resolution on October 10, 2023, their names have been mentioned as absentees, in the said resolution. The petitioner has disputed that fact and submitted instead, that they have not been granted a fair opportunity of hearing.
11. So far as the allegation of the writ petitioner regarding violation of the permitted road alignment by the route operators no. 211, 211A and 211B is concerned, the report of the concerned authority is eloquent enough. It has been submitted by dint of the said report that in terms of the resolution dated September 20, 2022, adequate steps have been taken to obtain an affidavit from the operators of route no. 211 and 211A regarding maintaining original route alignment and uniformity regarding route number plate placed in front of the vehicle. It has been reported further that the Secretary, Regional Transport Authority, Kolkata region was asked to intimate the enforcement wing to keep a regular vigil on plying of buses in the said route and also to take appropriate action in case of any deviation/violation of conditions of permit is detected.
12. The said respondent has further stated on affidavit in the said report as follows:-

“14. It is pertinent to mention here that as per the report of Motor Vehicle Inspector (Enforcement), Public Vehicles Department, Kolkata of 10th November, 2022, it transpired that the buses of route nos. 211, 211A and 211B are plying their respective vehicles on the route alignment as mentioned in their respective route permits and also using the assigned route number plate.”

13. So far as the resolution in the Board meeting dated September 20, 2022, is concerned, the report of the concerned respondent authority filed in Court on affidavit shows, due compliance thereof. Accordingly in view of that report the Court can come to a conclusion that there was no further violation of the route alignment and/or permit conditions as alleged and also that a constant vigil is being kept by the enforcement. The nature of the decision of the Board in its meeting held on September 20, 2022, is not punitive but supervisory and corrective. Measures for correction have already been undertaken, as it has transpired from the report of the respondent authority.
14. In the impugned resolution the Board has recorded the same. Also the route committee of route no. 211, 211A and 211B was directed to comply with the original route alignment permitted by the RTA Board and maintaining uniformity as regards the route number plates. As regards this aspect the Court find no further reason for interference, in so far as the Board's decision to restrain the violators and taking corrective measures against them, have now been duly complied with.
15. However, so far as the grievance of the petitioner regarding not allowing them adequate opportunity of hearing, is concerned, it is noted that the resolution of the Board speaks otherwise in this regard by recording their absence. However, for the ends of justice this Court is of the opinion that the petitioner may be granted such liberty once again over this issue by the concerned authority.

16. On the discussion as above, let this writ petition be disposed of with the following directions:-

(i) The respondent no. 5/RTA, North 24 Parganas, shall afford opportunity of hearing to the writ petitioner and the respondent no. 8, with respect to the issue of alleged violation of route alignment by the respondent no.8 and taking of adequate measure with respect to the same.

(ii) It is directed further that the concerned respondent authority only if finds sufficient and adequate material to vary with, add to or alter, its earlier decision vide resolution dated October 10, 2023, shall do so to the extent it finds fit and proper.

(iii) After conclusion of hearing, the respondent shall record in writing its decision and supply copy thereof to the parties.

(iv) The respondent authority shall follow the observations made in this order, while hearing the parties or passing an order.

17. This writ petition being WPA 7230 of 2024 is disposed of.

18. Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

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

(Rai Chattopadhyay, J.)