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13.05.2024
jb.

W.P.A. 7759 of 2023
Ajay Kr. Gupta & Ors.
vs.
State of West Bengal & Ors.

Mr. N. I. Khan
Mr. Amlan Kr. Mukherjee
.... For the Petitioners
Mr. Amal Kr. Sen
Ms. Asima Das(Sil)
.... For the State
Mr. Bhaskar Nandi
.... For the Respondent Nos. 6 & 7

Heard learned counsels for the parties.

A clarification was called for from the State respondents with regard to the decision arrived at in the notification published on 31st January, 2023. Such clarification has been made in the report in the form of affidavit submitted by the respondents.

Learned counsel for the State respondents submits that by a notification issued on 25th March, 1991 it was recorded that whenever an omnibus is registered and treated as a minibus, it should satisfy the conditions to be mentioned in the permits, registration certificates etc. including the condition that the seating capacity shall not exceed 31 including the driver and shall not be less than 28 including the driver. In the offer letters issued in favour of the 18 owners including the petitioners and the private

respondents seating capacity of the AC minibus was required to be 24 to 35 including the driver which was *de hors* the notification dated 25th March, 1991. In order to validate the offer letters already issued, modification of the earlier notification dated 27th November, 2020 formulating new stage carriage AC minibus route was required to be modified to the extent that 'AC minibus route' would be converted to 'AC bus service'. Such modification was necessary since the seating capacity of AC minibus is restricted to 31 whereas there is no upper limit of the seating capacity in AC bus.

The reason for modification of the earlier notification and issuance of the notification dated 31st January, 2023 having been satisfactorily explained by the authority, this Court does not find any illegality or irregularity in the notification that requires interference by this Court.

The other grievance of the petitioners is that though the offer letters issued in favour of the private respondents restricted the seating capacity to 31, the said respondents have placed buses with seating capacity of 40 and more. Therefore, the offer letters issued in their favour ought to be cancelled.

Placing reliance on the report in the form of affidavit submitted by the private respondents, learned counsel for the private respondents takes this Court to

the registration certificates of the vehicles of the private respondents which demonstrate that seating capacity of both the vehicles is 35 which is in conformity with the offer letters issued in their favour.

The petitioners seek liberty to submit a representation before the concerned authority ventilating their grievances as expressed in the writ petition and pray for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the State respondents submits that 5th respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of with liberty to the petitioners to submit a representation before the 5th respondent within one week from date. The 5th respondent be directed to consider and dispose of the representation within one month from the date of receipt thereof upon affording reasonable opportunity of hearing to all concerned including the petitioners and the private respondents, in accordance with law.

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

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.)