

WPA 12233 of 2024

Ramkrishna Sarkar & Ors.. --vs-The State of West Bengal & Ors.

5.8.2024
ct.25, sl. 21

Mr. Barun Kumar Samanta
...for the petitioners.

sk

Mr. Amal Kr. Sen, Ld. AGP
Mr. Lal Mohan Basu
...for the State.

The petitioners are aggrieved that the respondent authority has introduced a new route vide notification dated 21st March, 2023, spreading over the same alignment of a route where, 294 auto rickshaws are regularly plying.

The said notification dated 21st March, 2023, is challenged in this case. As well as the petitioners have expressed grievance, that their representation in this regard, dated 23rd February, 2024, is yet to be considered by the respondent.

Mr. Samanta, learned advocate appearing for the writ petitioner has submitted that the introduction of a new route spreading over the same alignment where the writ petitioners are plying their auto rickshaws being the existing operators, could bring immense hardship to them, insofar as in accordance with the population and member of commuters, the fleet strength is appropriate and there would not be any further necessity to introduce a new route.

It is submitted that introduction of the said route is only due to non-application of mind of the respondent authority as regards the actual requirement of the

commuters, thereby jeopardising the interest of the present permit holders who are plying through the said route. He indicates that one of the terminal points including almost total alignment of the route is same in the proposed new route, as that of the petitioner's, barring a stretch of 1.2 kilometers upto Najrul Park.

In such view of the fact he has further submitted that the same may risk the lives of the general commuters due to over crowding and rash driving of the vehicle.

The State is represented. It is submitted that the notification dated 21st March, 2023 is the policy decision of the State and executed within the purview of the statutory provisions. Any allegation of illegality or arbitrariness is denied on behalf of the State respondents.

Mr. Sen, learned advocate is appearing for the State respondents. He would submit that the policy decision itself has not been challenged by the petitioner. Hence, in this case there would not be any relief allowable to the petitioners.

Mr. Sen also submits that the policy undertaken by the concerned respondent by dint of notification dated 21st March, 2023 has already been acted upon by the State.

It appears that the respondents, having proclaimed a policy decision with respect to introduction of a new route for grant of permit and declaring alignment thereof,

would not be encumbered with any fetter, under the statute. However, apparently, the new route (No. 548) aligns over the previous route through which the writ petitioners are plying their vehicles being the permit holders and existing operators, barring a stretch of 1.2 Kilometers. It is learnt that already 294 auto rickshaws are plying in the said route.

Under such circumstances, the Court finds it proper that the representation of the petitioners, be immediately considered and disposed of by the respondent authority.

Therefore, the respondent/Transport Department is directed to consider and dispose of the petitioners' representation dated 23rd February, 2024. In doing so, the said respondent shall grant opportunity of hearing to the petitioners, the private respondent and any other stake holder, as it may deem fit and proper. The respondent shall dispose of the same, by dint of a reasoned order.

The exercise as above shall be concluded by the concerned respondent, within a period of six weeks from the date of communication of this order.

The Secretary/Transport Department shall take appropriate steps for communication of his order to the petitioners, within one week's time from its date.

The writ petition is disposed of.

Since no affidavits are called for, allegations made in the writ petition, are deemed to have been denied by the respondents.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rai Chattopadhyay, J.)