

May 24, 2024
ARDR (19)

WPA 12620 of 2024

Swapam Kumar Dutta
Vs.
The State of West Bengal & ors.

Adv. N. I. Khan,
Adv. Amlan Kr. Mukherjee,
...for the petitioner.
Adv. Pantu Deb Roy,
Adv. Subrata Guha Biswas,
...for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that the petitioner is an intending operator of autorickshaw in the route Ramkrishna Mahaswashan to Dum Dum station. The petitioner submitted a representation in this regard before the concerned authority on 12th December, 2023 which not being considered by the authority, the petitioner approached this Court in a writ petition, being WPA 2602 of 2024. By an order passed on 1st March, 2024, this Court directed the concerned authority to consider and dispose of the representation of the petitioner within a stipulated time frame.

Pursuant to the said order, the petitioner was called for a hearing by the authority and directed to submit requisite documents in support of his claim. The petitioner submitted such documents before the authority by a letter issued on 3rd April, 2024.

The prayer of the petitioner was considered and rejected by the authority solely on the ground of police (Traffic) objection from traffic point of view. The said order is assailed in the writ petition.

Placing reliance on an order passed by a coordinate Bench of this Court on 12th July, 2016 in WP 11834 (W) of 2016, learned counsel for the petitioner submits that the scheme of the Motor Vehicles Act, 1988 and rules framed thereunder do not contemplate seeking opinion from the Deputy Commissioner of Police, Traffic Department by the Secretary, Regional Transport Authority, Kolkata Region while considering the issue of granting permit in favour of the intending operators.

By the order impugned, the petitioner's application was turned down solely on the ground of police objection from the traffic point of view. It appears that the authority has failed to consider other aspects of the issue in rejecting the petitioner's prayer.

In view of the above, this Court is inclined to hold that the order impugned communicated to the petitioner by a letter issued on 3rd April, 2024 is required to be set aside.

Accordingly, the writ petition is allowed.

The order impugned communicated by a letter issued on 3rd April, 2024 is set aside.

The concerned authority, being the 2nd respondent herein, is directed to revisit the issue upon granting reasonable opportunity of hearing to the petitioner and considering all aspects connected with issuance of

proposed permit and dispose of the matter by passing a reasoned order within six weeks from the date of communication of this order, in accordance with law.

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

There shall however, be no order as to costs.

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

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

(Suvra Ghosh, J.)