

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

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

WPA 16852 of 2024

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Vs.

State of West Bengal & Ors.

For the Petitioner : **Mr. Shankarnath Mukherjee.**

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

**Heard On : 19/08/2024
Judgment on : 19/08/2024**

Rai Chattopadhyay, J.

1. The petitioner is aggrieved that firstly, by dint of the resolution of the Board meeting dated June 12, 2024, it was decided that **“The parties, objector and objectee had been asked to seat together to settle down their issues. Accordingly, it will be informed to the under signed within fifteen days from the date of issue of the resolution date about the advancement in writing before the R.T.A. Paschim Medinipur”**. It is stated that the law is bereft of any such provision of settlement between the parties, particularly with respect to a gross illegality, having been committed by the respondent R.T.A.

2. A report of the Secretary Regional Transport Authority, Paschim Medinipur dated August 13, 2024 has been filed in Court in terms of its previous directions. The petitioner has raised objections as regards the same too.
3. The factual background of the case may be narrated in brief, that the permit granted in favour of the private respondent/respondent no. 7, has been allegedly de hors the law, in so far as, the permit was granted by the Regional Transport Authority, Paschim Medinipur to the petitioner for a route alignment, major portion of which would be lying through the district of Bankura. Hence, in this regard, a countersignature of the R.T.A. Bankura, would have an essential requirement, before grant of such permit. Allegedly, the said mandatory provision, has not been complied with, in the present case.
4. Mr. Mukherjee, learned counsel appearing for the writ petitioner has submitted that the law would not permit the Regional Transport authority, Paschim Medinipur to issue permit with respect to the said route, major portion of which would be lying within some other district, unless its counterpart at the other district issues a 'no objection certificate', as to the same.
5. Therefore, at the first instance, the petitioner had challenged the grant of permit by the R.T.A. Paschim Medinipur to the private respondent.
6. Secondly, Mr. Mukherjee, has indicated to the impugned resolution of the Regional Transport Authority, Paschim Medinipur dated June 12, 2024 as mentioned above, stating that settlement between the parties, would not be a legal remedy available. Hence, the resolution is also liable to be set aside.

- 7.** It is submitted that an Act de hors the law and illegality cannot be maintained or regularized by taking recourse to mutual discussion and settlement. Since by dint of the said resolution, the Court has committed the respective parties to mutual settlement of the issue in dispute, as regards an illegal action, therefore, neither the resolution, nor grant of permit by R.T.A. Paschim Medinipur would be maintainable.
- 8.** According to Mr. Mukherjee, thus the resolution as above and the permit would be liable for setting aside being illegal.
- 9.** Thirdly, Mr. Mukherjee, has indicated to the order of the Secretary, Regional Transport Authority, Paschim Medinipur dated August 13, 2024 to submit that the same is without any authority and in violation of provisions of law.
- 10.** By dint of the order dated August 13, 2024, the Issuing Authority, that is, R.T.A. Paschim Medinipur has committed the matter to the Secretary, Regional Transport Authority, Bankura for issuance of a fresh permit/restoration of permit of the private respondent, keeping the same route, same timetable, as against the vehicle no. WB33E9597. According to the petitioner, the same would be in violation of the provisions for grant of permit under Section 69 of the Motor Vehicles Act, 1988.
- 11.** On the facts and circumstances as above, Mr. Mukherjee, has sought for an appropriate order in this case.

12. Mr. Pantu Deb Roy, learned Additional Government Pleader representing the State has submitted a report in terms of Court's earlier direction.
13. The said report dated August 13, 2024, indicates that the private respondent has been directed to surrender the existing permit forthwith. It is evident that R.T.A. Paschim Medinipur has written a letter dated August 13, 2024 to R.T.A. Bankura, subsequent to suspension of permit.
14. Let the relevant portion therefrom be quoted herein below:-
- “From the MVI report it is learnt that out of 130 km (one side) route as per Permit no.WB2023-SC-0089A, 75.5 km lying in the Bankura region and 54.5 km is in Midnapore.***
- In view of the above context, as per the Section 69 followed by Section 40 of MV Act, 1988, you are requested to issue a fresh permit/restoration of permit keeping the same route, same time table against the vehicle no. WB33E 9597 in connection with the said permit for the interest of the common people & the RTA, Paschim Medinipur has no objection in this regards.***
- This is for your kind information and taking necessary action.”***
15. According to Mr. Deb Roy, the respondent authority has acted only in terms of the law and in compliance with the direction of the Court to direct the private respondent to surrender the existing permit as well as requesting its counter-part in the district of Bankura for issuance of the same afresh.
16. Mr. Deb Roy would suggest that there may not be any interference as to the steps taken by the Regional Transport Authority, Paschim Medinipur.

- 17.** The present case is relating to grant of permit in a route spreading over the two districts, namely Paschim Medinipur and Bankura. Admittedly, the major portion of the route alignment lies in the district of Bankura. Section 69 (1) first proviso would enumerate the provisions, in case of grant of permit to a vehicle for plying over such a route. Let the same be extracted :

“69. General provision as to applications for permits.—

** ** ** **

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles: .”

- 18.** The law therefore is that for the route spreading over the two different districts, one should apply before the permit issuing authority of the district where the major portion of the route lies. In this case it would have been before the R.T.A. Bankura. The first error apparent is that the application of permit has been made before the R.T.A. at Paschim Medinipur, within which district the lesser portion of the route lies. In terms of section 70 (1) (a) of the Act of 1988, the application of permit should have disclosed the route alignment, that is, ***“the route or routes or the area or areas to which the application relates;”***.
- 19.** In view of the same and keeping in mind the provisions under section 69 (1) first proviso thereof, the R.T.A. Paschim Medinipur should not have at all gone into the question of grant of permit to the applicant/private respondent, on the said route. Therefore, the act of grant of permit to the said respondent by the R.T.A. Paschim Medinipur, is unauthorized, beyond the provisions of law and thus illegal. As the

R.T.A. Paschim Medinipur would not have the authority under the law to grant permit to the respondent, he having sought for such a permit for a route spreading majorly over the other district, it can also not take shelter under the provision of section 80 (2) of the Act of 1988, which restricts the R.T.A. from refusing grant of a permit. The statutory provision is as below :

“80. Procedure in applying for and granting permits.—

(2) [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act:”

- 20.** Secondly, in the impugned resolution dated June 12, 2024, the R.T.A. Board, Paschim Medinipur has held that the parties should sit together to resolve and settle their issues. However, the issue is with regard to the gross illegality having been committed by the said authority in grant of permit to the respondent, which is not a matter of sitting down together by the parties and resolving. What settlement can be brought with respect to an illegality having been committed? The proposition itself raises serious doubt as regards the competence, knowledge, intention and bona fide discharge of duties by the RT.A. Paschim Medinipur. No doubt the same is empowered with the sacred power to exercise discretion in a matter of consideration of issues arising before them relating to grant of permit. But that should not be usage of mere thumb rule but should be based on law, reasons and rationale. Discretion not used within the periphery of law is sheer arbitrariness and in discharge of public duty, a person's own sweet will or closed mind or arbitrariness is abhorrently inapposite. Hence, the Court finds that the decision of the respondent authority, vide its resolution dated June 12, 2024, is not maintainable. Thus, the same is liable to be quashed.

- 21.** The follow up steps by the respondent/R.T.A. Paschim Medinipur, are evident from its report, submitted in the Court. The same has been extracted before. R.T.A. Paschim Medinipur has written to R.T.A. Bankura, to issue a fresh permit/restoration of permit keeping the same route and same time table. That, it says in accordance with section 69 followed by section 40 of the Motor Vehicles Act, 1988.
- 22.** Section 40 of the said Act, is with regard to the place of registration of a vehicle, to provide as follows :

“40. Registration, where to be made.—Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.”

Section 69 of the said Act has been discussed earlier.

Neither of those provisions have empowered the Regional Transport Authority of one region/ district, to seek grant of permit for any applicant, before the other Regional Authority, on a particular route and timetable. The phenomenon of grant of permit by a Regional Transport Authority, a subsequent suspension of the same (reason for such suspension has not been expressed), followed by a request to its counter-part in other district for grant of fresh permit or restoration of the old one on the same route and time table, is unknown to the statute. The statutory provisions are very categorical as to who is to apply for permit, before whom and in what manner. Any improvisation thereupon is impermissible. The respondent, being a statutory authority, has to act within the four corners of the statute and only in terms as provided in the statute. Therefore, bereft of any statutory sanction, the respondent/R.T.A. Paschim Medinipur is not empowered

to write in the manner as in letter dated August 13, 2024. Therefore, issuance of such letter is not only without application of mind and unauthorisedly but a reckless exercise of power by the said authority, not vested in it by law. The same is also liable to be set aside, for the said reasons.

23. The discussions as above prompts this Court to set aside the grant of permit to the petitioner by the respondent/ RTA Paschim Medinipur, its resolution dated June 12, 2024 and the letter dated August 13, 2024.

24. Thus writ petition No. WPA 16852 of 2024 is allowed.

25. Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)

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