

WPA 18714 of 2024

Dilip Kumar Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Sankar Nath Mukherjee,

Mr.Niraj Gupta,

Mr. Saikat Pal,

Ms. Manisha Paswan.

... for the petitioner

Mr. Amal Kumar Sen, ld. A.G.P.,

Mr. Jaladhi Das.

... for the State

1. Affidavit-of-service filed in Court today is taken on record.
2. In this case the writ petitioner has challenged the order of the Secretary State Transport Authority, Patna, Bihar dated 22nd October, 2021, thereby rejecting the proposal of counter-signature of the permit to the petitioner, which was initially issued by the competent State Transport Authority West Bengal, to the said petitioner.
3. The petitioner desires to ply his vehicle through the inter-state route Siliguri to Saharsa Bihar. For the same he has been granted permit by the State Transport Authority, West Bengal.
4. According to the Reciprocal Transport Agreement entered into between the States West Bengal and Bihar dated 22nd February, 2016, the same is required to be counter-signed by the respective

authority in the State of Bihar, as the route upon which the vehicle is to ply, lies through the two States namely West Bengal as well as Bihar.

5. Therefore, the proposal for counter-signing the permit granted to the petitioner by the State Transport Authority, West Bengal was forwarded to the State Transport Authority, Bihar to which they have replied vide the impugned order dated 22nd October, 2021.
6. The State Transport Authority, Bihar in the said impugned order has stated inter alia that, as per clause A (ix) of the Reciprocal Transport Agreement, the applicant has to show two vehicles, for grant of permit, on a route covering more than 250 km. That since, the route concerned covers more than 250 km and the applicant produced one vehicle only to cover the entire route, the State Transport Authority, Bihar has considered that to be in derogation of the agreed terms of agreement as mentioned above and rejected proposal for counter-signature.
7. Hence, this writ petition.
8. Mr. Sankar Nath Mukherjee, learned counsel appearing for the petitioner has submitted that the clause A(ix) of the Reciprocal Transport Agreement dated 22nd February, 2016 is not a mandatory provision.

9. In support of his such contention, he has relied on a decision of this Court in WPA no. 22404 of 2022 dated 14th March, 2023 (***Pankaj Gupta vs. State of West Bengal & Ors.***). On the basis of the same, he has submitted that the Court has held the said relevant provision of the transport agreement between the parties not to be a mandatory one and that operation or application of the same would be based on the sole discretion of the permit holder, whether more than one vehicle is to be provided by him or not for plying in the said route as per the permit conditions. He says that the ratio of the said judgment of the Court, would squarely apply in the present case too.
10. Mr. Amal Kumar Sen, learned Additional Government Pleader is representing the State. He has informed that the issue in question has already been covered and decided by the said Coordinate Bench's order of this Court.
11. It appears that admittedly the length of the route spreading over two states that is West Bengal and Bihar, is more than 250 km.
12. The language of clause A(ix) of the Reciprocal Transport Agreement, operating between the two states would indicate that where the total distance of the route is 250 km. or more, two vehicles can be allowed under a single permit

subject to payment of double the scheduled permit fees.

- 13.** The language of the said agreement is eloquent and clear enough to make anyone understand about the optional nature of the provision, as above.
- 14.** The agreement speaks that more than one vehicle can be allowed under a single permit subject to the permit holder paying double the scheduled permit fees therefor.
- 15.** The provision therefore, does not appear to be a mandatory one and principally has provided for an option to be used by the permit holder if more than one vehicle is to be provided by him in the said route, after paying the commensurate statutory fees. The purpose is for maintaining the time table and providing flawless service to the commuters. Therefore, the respondent RTA Bihar would not be proper in rejecting counter signature to the permit of the petitioner, initially granted to him by the RTA West Bengal, excepting upon a finding that conditions of permit have been or have the possibility of being violated by the petitioner. It is pertinent to mention that, the decision of the said respondent is not based on any grounds as regards violation or possible violation of permit conditions, by the writ petitioner.

16. In such circumstances, rejection of proposal of counter-signature on the said ground as mentioned above, by the respondent State Transport Authority, Bihar appears to be not in terms of the Reciprocal Transport Agreement entered into between the parties.
17. The finding as above would be adequately supported by the ratio of the decision of the Court in ***Pankaj Gupta (supra)***'s case, as referred to by the petitioner. The Court therein has also been pleased to find the terms of the Agreement as above, not to be a mandatory one and to depend upon the option exercised by the permit holder, if any. It is pertinent to note that in the said case the Court has also gone into the question of maintainability of the writ petition before this Court and answers the question in affirmative.
18. On the discussion as above, the impugned order of the respondent State Transport Authority, Bihar dated 22nd December, 2021 appears to be not in terms of the Reciprocal Transport Agreement and beyond the scope of the same. Hence, the same is liable to be set aside.
19. It is pertinent to mention, that in this case, in spite of due service of notices for more than once upon the respondent State Transport Authority, Bihar, the same has not been represented.

- 20.** Hence, the case has been taken up in absence of the State Transport Authority, Bihar.
- 21.** The writ petition being WPA 18714 of 2024 is disposed of with the following directions:-
- (i).** Order dated 22nd October, 2021 of the STA Bihar is set aside.
- (ii).** The respondent State Transport Authority, Bihar is directed to immediately counter-sign the permit granted to the writ petitioner by the State Transport Authority, West Bengal, within a maximum period of ten days from the date of communication of copy of this order.
- 22.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
- 23.** This writ petition being WPA No. 18714 of 2024 is disposed of, along with the pending applications, if any.
- 24.** Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)