

23.09.2024
Sl. No. 16.
D/L.
Mithun
Ct.No.25.

WPA 20574 of 2024

Samrat Bit
Vs.
The State of West Bengal & Ors.

Sk. Samim Akhter

..for the petitioner

Mr. Arabinda Chatterjee, Sr. Adv.

Ms. Aayushi Mukherjee

...for respondent nos.7,8 & 9.

Mr. Raja Ram Banerjee

...for the State.

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

The petitioner has come up before this Court in
this case to seek a direction that his representation
challenging grant of permit to the private respondent
i.e. dated May 28, 2024 be considered and disposed of
by the respondent, Regional Transport Authority,
Hooghly.

Mr.Sk. Samim Akhter, appearing for the
petitioner submits that the permit of the petitioner was
revoked by the concerned respondent by dint of an
order dated June 19, 2024. However, the petitioner
had filed his representation before such revocation
order of the permit, i.e. on May 28, 2024. For the
reasons as above, it is stated that the representation is

required to be considered and decided by the concerned department.

To such submission, Mr. Chatterjee, Ld. Sr. Advocate appearing for the private respondent has raised serious objections. Mr. Chatterjee says that the writ petitioner is not an existing operator who can maintain a writ petition on his own behalf before this Court to challenge grant of permit to his client. That is for the reason that the petitioner not being an existing operator, would not have any legal right infringed, by any so-called alleged in-action of the respondent authority. On the other hand, it is submitted, that the present petition is revengeful and a counter blast and motivatedly filed by the present writ petitioner, which is not maintainable in the eye of law.

In support of his submissions Mr. Chatterjee, Ld. Sr. Advocate has relied on a Full Bench decision of this Court reported in **2015 (2) CHN (CAL) 185 (Prabhat Pan & Ors. vs. The State of West Bengal and Ors.)**, to submit that the law is well settled now that only an existing permit holder or operator may raise an objection as to grant of permit or plying vehicle by any other operator. But such right is not available to a non-operator or a person not holding any permit, like the present petitioner.

For the reasons as above, Mr. Chatterjee is of the opinion that writ petition should be dismissed.

Mr. Raja Ram Banerjee is appearing for the State.

Considered the submissions. Perused the materials on record and the judgment as relied on by Mr. Chatterjee, Ld. Sr. Advocate.

In accordance with the liberated policy pursuant to the Motor Vehicles Act, 1988, grant of permit to a person may be made a subject matter of challenge. The question is as to who is eligible to raise such challenge against grant of permit to a person, as has been done by the petitioner in this case against the private respondent. Is the liberated policy under the Act of 1988 should be stretched to the extent that each and every body on earth, may raise a challenge as against grant of permit to a person?

The Hon'ble Full Bench answers the same in the case of ***Prabhat Pan (supra)***, in following words:-

“44. Accordingly, the primary question raised in the two orders of reference is answered thus: subject to the considerations as to there being an efficacious alternative remedy, a writ petition at the instance of existing operators providing stage-carriage services on different routes, who seek to challenge the grant of fresh permits in favour of new operators (either on the self-same routes on which they have been operating or touching a portion of the same) by the transport authorities is maintainable if the challenge is on the ground of illegality or arbitrariness or colourable exercise of power or otherwise being violative of Article 14 of

the Constitution, notwithstanding that the action may be impelled by the commercial interests of the existing operator; provided that, the substance of the challenge is not founded only on the commercial interests of the existing operator being prejudiced by the acts complained of.”

Thus the law is well settled that only an existing operator (may be of some other route), may raise an objection and challenge grant of permit to a person.

The petitioner claims to fall under the category of an existing operator on the date of his raising the objection, that is May 28, 2024, the date of his representation. However, immediately thereafter, the petitioner's permit was revoked, by dint of an order dated June 19, 2024. He has lost the status of the existing operator, with effect from the said date. Therefore, after June 19, 2024, the petitioner did not possess any legal right, relating to his permit, infringement of which he could have alleged about. And his prayer by dint of his representation dated May 28, 2024, has thus become redundant.

In the factual background as discussed above, the ratio decided in the case of ***Prabhat Pan (supra)***, squarely apply in the present case.

Thus the petitioner cannot be found to have an enforceable right, as against the State action of grant of permit to the private respondent. The present writ petition is devoid of any merit.

For the reasons as discussed above, the present writ petition being WPA No. 20574 of 2024 is dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to its parties on usual undertaking.

(Rai Chattopadhyay, J.)